586
1 of 2

PRELIMINARY PRINT

VOLUME 586 U. S. - PART 1
PAGES 1–132; 801–1140

OFFICIAL REPORTS

OF

THE SUPREME COURT

BEGINNING OF TERM
OCTOBER 1, 2018, THROUGH FEBRUARY 15, 2019

CHRISTINE LUCHOK FALLON
REPORTER OF DECISIONS

For sale by the Superintendent of Documents, U. S. Government Publishing Office
Washington, D.C. 20402

Vol. 586 (Pp. 1–132; 801–1140)
UNITED STATES REPORTS
Part 1

JUSTICES

OF THE

SUPREME COURT

DURING THE TIME OF THESE REPORTS*

JOHN G. ROBERTS, JR., CHIEF JUSTICE.
CLARENCE THOMAS, ASSOCIATE JUSTICE.
RUTH BADER GINSBURG, ASSOCIATE JUSTICE.
STEPHEN BREYER, ASSOCIATE JUSTICE.
SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE.
SONIA SOTOMAYOR, ASSOCIATE JUSTICE.
ELENA KAGAN, ASSOCIATE JUSTICE.
NEIL M. GORSUCH, ASSOCIATE JUSTICE.
BRETT M. KAVANAUGH, ASSOCIATE JUSTICE.[1]

RETIRED

JOHN PAUL STEVENS, ASSOCIATE JUSTICE.
SANDRA DAY O'CONNOR, ASSOCIATE JUSTICE.
ANTHONY M. KENNEDY, ASSOCIATE JUSTICE.[2]
DAVID H. SOUTER, ASSOCIATE JUSTICE.

OFFICERS OF THE COURT

JEFFERSON B. SESSIONS, III, ATTORNEY GENERAL.[3]
MATTHEW G. WHITAKER, ACTING ATTORNEY GENERAL.[4]
WILLIAM P. BARR, ATTORNEY GENERAL.[5]
NOEL J. FRANCISCO, SOLICITOR GENERAL.
SCOTT S. HARRIS, CLERK.
CHRISTINE LUCHOK FALLON, REPORTER OF DECISIONS.
PAMELA TALKIN, MARSHAL.
LINDA S. MASLOW, LIBRARIAN.

---

* For notes, see p. II.

NOTES

[1] The Honorable Brett M. Kavanaugh, of Maryland, formerly a Judge of the United States Court of Appeals for the District of Columbia Circuit, was nominated by President Trump on July 9, 2018, to be an Associate Justice of this Court; the nomination was confirmed by the Senate on October 6, 2018; he was commissioned and took the oaths and his seat on the same date. He was presented to the Court on November 8, 2018. See post, p. v.

[2] Justice Kennedy retired effective July 31, 2018. See post, p. ix.

[3] Attorney General Sessions resigned effective November 7, 2018.

[4] Mr. Whitaker became Acting Attorney General effective November 7, 2018.

[5] The Honorable William P. Barr, of Virginia, was nominated by President Trump on December 7, 2018, to be Attorney General; the nomination was confirmed by the Senate on February 14, 2019; he was commissioned and took the oath of office on the same date.

SUPREME COURT OF THE UNITED STATES

Allotment of Justices

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this Court among the circuits, pursuant to Title 28, United States Code, Section 42, and that such allotment be entered of record, effective August 1, 2018, viz.:

For the District of Columbia Circuit, John G. Roberts, Jr., Chief Justice.

For the First Circuit, Stephen Breyer, Associate Justice.

For the Second Circuit, Ruth Bader Ginsburg, Associate Justice.

For the Third Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Fourth Circuit, John G. Roberts, Jr., Chief Justice.

For the Fifth Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Sixth Circuit, Elena Kagan, Associate Justice.

For the Seventh Circuit, Elena Kagan, Associate Justice.

For the Eighth Circuit, Neil M. Gorsuch, Associate Justice.

For the Ninth Circuit, John G. Roberts, Jr., Chief Justice.

For the Tenth Circuit, Sonia Sotomayor, Associate Justice.

For the Eleventh Circuit, Clarence Thomas, Associate Justice.

For the Federal Circuit, John G. Roberts, Jr., Chief Justice.

August 1, 2018.

(For next previous allotment, see 585 U. S., Pt. 2, p. II.)
(For next subsequent allotment, see *post*, p. IV.)

SUPREME COURT OF THE UNITED STATES

Allotment of Justices

It is ordered that the following allotment be made of the Chief Justice and Associate Justices of this Court among the circuits, pursuant to Title 28, United States Code, Section 42, and that such allotment be entered of record, effective October 19, 2018, viz.:

For the District of Columbia Circuit, John G. Roberts, Jr., Chief Justice.

For the First Circuit, Stephen Breyer, Associate Justice.

For the Second Circuit, Ruth Bader Ginsburg, Associate Justice.

For the Third Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Fourth Circuit, John G. Roberts, Jr., Chief Justice.

For the Fifth Circuit, Samuel A. Alito, Jr., Associate Justice.

For the Sixth Circuit, Sonia Sotomayor, Associate Justice.

For the Seventh Circuit, Brett M. Kavanaugh, Associate Justice.

For the Eighth Circuit, Neil M. Gorsuch, Associate Justice.

For the Ninth Circuit, Elena Kagan, Associate Justice.

For the Tenth Circuit, Sonia Sotomayor, Associate Justice.

For the Eleventh Circuit, Clarence Thomas, Associate Justice.

For the Federal Circuit, John G. Roberts, Jr., Chief Justice.

October 19, 2018.

(For next previous allotment, see *ante*, p. III.)

APPOINTMENT OF JUSTICE KAVANAUGH

Supreme Court of the United States

THURSDAY, NOVEMBER 8, 2018

Present: Chief Justice Roberts, Justice Thomas, Justice Breyer, Justice Alito, Justice Sotomayor, Justice Kagan, Justice Gorsuch, and Justice Kavanaugh.

The Chief Justice said:

This special sitting of the Court is held today to receive the Commission of the newly appointed Associate Justice of the Supreme Court of the United States, Brett M. Kavanaugh.

We are pleased to have with us today the President of the United States. On behalf of the Court, Mr. President, I extend to you and the First Lady a warm welcome. We are also pleased to have with us our retired colleague, Justice Kennedy.

The Court now recognizes the Acting Attorney General of the United States, Matthew Whitaker.

Acting Attorney General Whitaker said:

Mr. Chief Justice, and may it please the Court. I have the Commission which has been issued to the Honorable Brett M. Kavanaugh, as an Associate Justice of the Supreme Court of the United States. The Commission has been duly signed by the President of the United States and attested by the Attorney General of the United States. I move that the Clerk read the Commission and that it be made part of the permanent record of the Court.

THE CHIEF JUSTICE said:

Thank you, Attorney General Whitaker, your motion is granted. Mr. Clerk, will you please read the Commission.

The Clerk read the Commission:

DONALD J. TRUMP,

PRESIDENT OF THE UNITED STATES OF AMERICA,

To all who shall see these Presents, Greeting:

KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness, and Learning of Brett M. Kavanaugh, of Maryland, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Associate Justice of the Supreme Court of the United States, and do authorize and empower him to execute and fulfill the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining, unto him, the said Brett M. Kavanaugh, during his good behavior.

In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

Done at the City of Washington, this sixth day of October, in the year of our Lord two thousand and eighteen, and of the Independence of the United States of America the two hundred and forty-third.

[SEAL] DONALD J. TRUMP

By the President:

JEFFERSON B. SESSIONS, III,
Attorney General

THE CHIEF JUSTICE said:

I now ask the Deputy Clerk of the Court to escort Justice Kavanaugh to the bench.

THE CHIEF JUSTICE said:

Please repeat after me.

Justice Kavanaugh said:

I, Brett M. Kavanaugh, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as an Associate Justice of the Supreme Court of the United States under the Constitution and laws of the United States. So help me God.

BRETT M. KAVANAUGH

Subscribed and sworn to before me this eighth day of November, 2018.

JOHN G. ROBERTS, JR.
Chief Justice

THE CHIEF JUSTICE said:

Congratulations. JUSTICE KAVANAUGH, on behalf of all the members of the Court, it is my pleasure to extend to you a very warm welcome as the 102nd Associate Justice of the Supreme Court of the United States. We wish for you a long and happy career in our common calling.

JUSTICE KAVANAUGH said:

Thank you.

RETIREMENT OF JUSTICE KENNEDY

Supreme Court of the United States

MONDAY, DECEMBER 3, 2018

Present: Chief Justice Roberts, Justice Thomas, Justice Ginsburg, Justice Breyer, Justice Alito, Justice Sotomayor, Justice Kagan, Justice Gorsuch, and Justice Kavanaugh.

The Chief Justice said:

Before we commence this morning's business, I would like to acknowledge the presence in the courtroom of Justice Anthony M. Kennedy, and I would like to read into the records of the Court an exchange of correspondence.

The first letter is dated today, December 3, 2018. It is to Justice Kennedy from my colleagues and me, and it reads as follows:

Supreme Court of the United States,
Chambers of The Chief Justice,
Washington, D. C., December 3, 2018.

Dear Tony:

Although our new Term is well underway, we remain keenly aware of your absence on the Bench and in our Conference. From the time each of us came to know you, you have enriched our lives through your kindness, comradery, and generosity. We are heartened that you have maintained an active presence in the building, and we take great comfort that you remain our valued colleague here.

No one leaves Sacramento to become a prospector. But your labors since moving east have yielded a treasure of

thoughtful decisions. This legacy will guide the understanding of judges, lawyers, and citizens for years to come.

Your example of ceaseless civility inspires us as we go forward with the work of the Court that you have so vitally advanced. We wish you and Mary well in your much-deserved retirement, and we look forward to many more years in this new chapter of our shared friendships.

Affectionately,
JOHN G. ROBERTS, JR.
CLARENCE THOMAS
RUTH BADER GINSBURG
STEPHEN BREYER
SAMUEL A. ALITO, JR.
SONIA SOTOMAYOR
ELENA KAGAN
NEIL M. GORSUCH
BRETT M. KAVANAUGH
JOHN PAUL STEVENS
SANDRA DAY O'CONNOR
DAVID H. SOUTER

THE CHIEF JUSTICE said:

The next letter is to myself and the colleagues on the bench and it is from Justice Kennedy. It reads:

SUPREME COURT OF THE UNITED STATES,
CHAMBERS OF ANTHONY M. KENNEDY,
Washington, D. C., December 3, 2018.

Dear Chief Justice and Dear Colleagues,

Please accept this expression of deepest appreciation for the uplifting words and sentiments in your most gracious letter. It will be treasured by our family.

This reply is not to say farewell, for it is my hope to linger here to be with all of you in the days and years to come. It is necessary, of course, to say farewell to being on the bench and in the conference room. There, for the past thirty years, it was a high honor to join with our colleagues in seeking

how best to define and interpret an idea and a reality—the idea and the reality of the law. Even if we disagreed in a particular case, we admired and respected each other as we sought to explain the law as we found it to be and to ensure that, over the course of time, the law and the freedoms it sustains will be ever more secure, ever more revered.

We first came to Washington knowing few who lived here, but the members of the Court at once reached out to Mary and me with gifts of guidance, understanding, and above all, the priceless bond of friendship. It seems proper to quote from the Poet and to say that for all these gifts "I can no other answer make but thanks, and thanks, and ever thanks."

With assurances of my continued highest regards, I remain,

Yours sincerely,

Tony

INDEX

(Vol. 586 U. S., Part 1)

TABLE OF CASES REPORTED

(Vol. 586 U. S., Part 1)

NOTE: All undesignated references herein to the United States Code are to the 2012 edition, one of its supplements, or both.

Cases reported before page 801 are those decided with opinions of the Court or decisions *per curiam*. Cases reported on page 801 *et seq.* are those in which orders were entered. The page numbers are the same as they will be in the bound volume, thus making the *permanent* citations available upon publication of this preliminary print.

An individual attorney whose name appears on a brief filed with the Court will be listed in the United States Reports in connection with the opinion in the case concerning which the document is filed if the attorney is a member of the Court's Bar at the time the case is argued.

CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 2018

MOUNT LEMMON FIRE DISTRICT *v.* GUIDO ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 17–587. Argued October 1, 2018—Decided November 6, 2018

John Guido and Dennis Rankin filed suit, alleging that the Mount Lemmon Fire District, a political subdivision in Arizona, terminated their employment as firefighters in violation of the Age Discrimination in Employment Act of 1967 (ADEA). The Fire District responded that it was too small to qualify as an "employer" under the ADEA, which provides: "The term 'employer' means a person engaged in an industry affecting commerce who has twenty or more employees . . . . The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State . . . ." 29 U. S. C. § 630(b).

Initially, both Title VII of the Civil Rights Act of 1964 and the ADEA applied solely to private sector employers. In 1974, Congress amended the ADEA to cover state and local governments. A previous, 1972, amendment to Title VII added States and their subdivisions to the definition of "person[s]," specifying that those entities are engaged in an industry affecting commerce. The Title VII amendment thus subjected States and their subdivisions to liability only if they employ a threshold number of workers, currently 15. By contrast, the 1974 ADEA amendment added state and local governments directly to the definition of "employer." The same 1974 enactment also amended the Fair Labor Standards Act (FLSA), on which many aspects of the ADEA are based, to reach all government employers regardless of their size. 29 U. S. C. § 203(d), (x).

Syllabus

Held: The definitional provision's two-sentence delineation, set out in § 630(b), and the expression "also means" at the start of § 630(b)'s second sentence, combine to establish separate categories: persons engaged in an industry affecting commerce with 20 or more employees; and States or political subdivisions with no attendant numerosity limitation.

The words "also means" in § 630(b) add new categories of employers to the ADEA's reach. First and foremost, the ordinary meaning of "also means" is additive rather than clarifying. See 859 F. 3d 1168, 1171 (case below) (quoting Webster's New Collegiate Dictionary 34). The words "also means" occur dozens of times throughout the U. S. Code, typically carrying an additive meaning. *E. g.*, 12 U. S. C. § 1715z–1(i)(4). Furthermore, the second sentence of the ADEA's definitional provision, § 630(b), pairs States and their political subdivisions with agents, a discrete category that carries no numerical limitation.

Reading the ADEA's definitional provision, § 630(b), as written to apply to States and political subdivisions regardless of size may give the ADEA a broader reach than Title VII, but this disparity is a consequence of the different language Congress chose to employ. The better comparator for the ADEA is the FLSA, which also ranks States and political subdivisions as employers regardless of the number of employees they have. The Equal Employment Opportunity Commission has, for 30 years, interpreted the ADEA to cover political subdivisions regardless of size, and a majority of the States impose age discrimination proscriptions on political subdivisions with no numerical threshold. Pp. 6–8.

859 F. 3d 1168, affirmed.

GINSBURG, J., delivered the opinion of the Court, in which all other Members joined, except KAVANAUGH, J., who took no part in the consideration or decision of the case.

E. Joshua Rosenkranz argued the cause for petitioner. With him on the briefs were *Thomas M. Bondy*, *Christopher J. Cariello*, and *Jeffrey C. Matura*.

Jeffrey L. Fisher argued the cause for respondents. With him on the brief were *Don Awerkamp*, *Shannon Giles*, *David T. Goldberg*, and *Pamela S. Karlan*.

Jonathan C. Bond argued the cause for the United States as *amicus curiae* urging affirmance. On the brief were *Solicitor General Francisco*, *Deputy Solicitor General Wall*,

Morgan L. Goodspeed, *Jennifer S. Goldstein*, and *Anne Noel Occhialino.**

JUSTICE GINSBURG delivered the opinion of the Court.

Faced with a budget shortfall, Mount Lemmon Fire District, a political subdivision in Arizona, laid off its two oldest full-time firefighters, John Guido (then 46) and Dennis Rankin (then 54). Guido and Rankin sued the Fire District, alleging that their termination violated the Age Discrimination in Employment Act of 1967 (ADEA), 81 Stat. 602, as amended, 29 U. S. C. § 621 *et seq.* The Fire District sought dismissal of the suit on the ground that the District was too small to qualify as an "employer" within the ADEA's compass. The Act's controlling definitional provision, 29 U. S. C. § 630(b), reads:

> "The term 'employer' means a person engaged in an industry affecting commerce who has twenty or more employees . . . . The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State . . . ."

The question presented: Does the ADEA's numerosity specification (20 or more employees), applicable to "a person engaged in an industry affecting commerce," apply as well to state entities (including state political subdivisions)? We hold, in accord with the United States Court of Appeals for the Ninth Circuit, that § 630(b)'s two-sentence delineation, and the expression "also means" at the start of the second sentence, combine to establish separate categories: persons engaged in an industry affecting commerce with 20 or more employees; and States or political subdivisions with no at-

---

**Collin O'Connor Udell* and *Lisa Soronen* filed a brief for the National Conference of State Legislatures et al. as *amici curiae* urging reversal.

Daniel B. Kohrman, *Laurie A. McCann*, *Dara S. Smith*, and *William Alvarado Rivera* filed a brief for AARP et al. as *amici curiae* urging affirmance.

tendant numerosity limitation. "[T]wenty or more employees" is confining language, but the confinement is tied to § 630(b)'s first sentence, and does not limit the ADEA's governance of the employment practices of States and political subdivisions thereof.

I

Initially, Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et seq.*, which prohibits employment discrimination on the basis of race, color, religion, sex, and national origin, applied solely to private sector employers. The same was true of the ADEA, enacted three years later to protect workers against "arbitrary age discrimination." 29 U. S. C. § 621(b). As originally enacted, both Title VII and the ADEA imposed liability on "employer[s]," defined in both statutes to include "a person engaged in an industry affecting commerce" whose employees met a numerical threshold, but specifically to exclude governmental entities. 78 Stat. 253 (Title VII); 81 Stat. 605 (ADEA).

In 1972, Congress amended Title VII to reach state and local employers. Under the revised provision of Title VII, "[t]he term 'person' includes one or more individuals, governments, governmental agencies, [and] political subdivisions," also certain other specified entities, and "[t]he term 'employer' means a person engaged in an industry affecting commerce who has fifteen or more employees . . . ." 42 U. S. C. § 2000e(a)–(b). For this purpose, amended Title VII defines "industry affecting commerce" to "includ[e] any governmental industry, business, or activity." § 2000e(h). The 1972 amendment to Title VII thereby extended the statute's coverage to state and local government entities by defining them as "person[s]." In turn, as "person[s]," these entities meet Title VII's definition of "employer" and are subject to liability only if they have at least 15 employees.[1]

[1] The Americans with Disabilities Act of 1990 defines "employer" in materially the same way as Title VII and accords "person . . . the same meaning" as in Title VII. 42 U. S. C. § 12111(5), (7).

Two years later, in 1974, Congress amended the ADEA to cover state and local governments. Unlike in Title VII, where Congress added such entities to the definition of "person," in the ADEA, Congress added them directly to the definition of "employer." Thus, since 1974, the ADEA's key definitional provision has read:

> "The term 'employer' means a person engaged in an industry affecting commerce who has twenty or more employees . . . . The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State . . . ." 29 U. S. C. § 630(b).

In the same 1974 enactment, Congress amended the Fair Labor Standards Act (FLSA), on which parts of the ADEA had been modeled, to reach all government employers regardless of their size. See 88 Stat. 58, 29 U. S. C. § 203(d), (x).

The parties dispute the proper reading of the ADEA following the 1974 amendment. Does "also means" add new categories to the definition of "employer," or does it merely clarify that States and their political subdivisions are a type of "person" included in § 630(b)'s first sentence? If the former, state and local governments are covered by the ADEA regardless of whether they have as many as 20 employees. If the latter, they are covered only if they have at least 20 employees. Federal courts have divided on this question. Compare *Kelly* v. *Wauconda Park Dist.*, 801 F. 2d 269 (CA7 1986) (state and local governments are covered by the ADEA only if they have at least 20 employees); *Cink* v. *Grant County*, 635 Fed. Appx. 470 (CA10 2015) (same); *Palmer* v. *Arkansas Council on Economic Educ.*, 154 F. 3d 892 (CA8 1998) (same); *EEOC* v. *Monclova*, 920 F. 2d 360 (CA6 1990) (same), with this case, 859 F. 3d 1168 (CA9 2017) (state and local governments are covered by the ADEA regardless of their number of employees). We granted certiorari to resolve the conflict. 583 U. S. 1155 (2018).

II

For several reasons, we conclude that the words "also means" in § 630(b) add new categories of employers to the ADEA's reach. First and foremost, the ordinary meaning of "also means" is additive rather than clarifying. As the Ninth Circuit explained, "'also' is a term of enhancement; it means 'in addition; besides' and 'likewise; too.'" 859 F. 3d, at 1171 (quoting Webster's New Collegiate Dictionary 34 (1973)). Indeed, reading "also" additively to create a separate category of "employer" seemed to this Court altogether fitting in *EEOC* v. *Wyoming*, 460 U. S. 226 (1983). There, we held that applying the ADEA to state and local governments does not encroach on States' sovereignty or Tenth Amendment immunity. *Id.*, at 240–242. In the course of so holding, we described the 1974 ADEA amendment as "extend[ing] the substantive prohibitions of the Act to employers having at least 20 workers [as opposed to 25 in the original version], *and to* the Federal and State Governments." *Id.*, at 233 (emphasis added). In this regard, we note, it is undisputed that the ADEA covers Federal Government entities, which our opinion in *Wyoming* grouped with state entities, regardless of the number of workers they employ. 29 U. S. C. § 633a.

Instructive as well, the phrase "also means" occurs dozens of times throughout the U. S. Code, typically carrying an additive meaning. See Brief for Respondents 11–13, and n. 2 (collecting citations). For example, 12 U. S. C. § 1715z–1(i)(4), provides:

> "[T]he term 'elderly families' means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped."

"[A] single person" plainly adds to, rather than clarifies, the preceding statutory delineation, "two or more persons."

Just so with States and their political subdivisions in the ADEA's definition of "employer." Notably, in § 1715z–1(i)(4), Congress repeated the "sixty-two years of age or over or is handicapped" qualifier to render it applicable to "a single person." In the ADEA, by contrast, Congress did not repeat the "twenty or more employees" qualifier when referencing state and local government entities. This Court is not at liberty to insert the absent qualifier.

Furthermore, the text of § 630(b) pairs States and their political subdivisions with agents, a discrete category that, beyond doubt, carries no numerical limitation. See Tr. of Oral Arg. 55–56. The Fire District does not gainsay that the 20-employee restriction applies to § 630(b)'s first sentence. Its construction, however, would lift that restriction for the agent portion of the second sentence, and then reimpose it for the portion of that sentence addressing States and their political subdivisions. We resist a reading so strange.[2]

The Fire District presses the argument that the ADEA should be interpreted in line with Title VII, which, as noted *supra*, at 4, applies to state and local governments only if they meet a numerosity specification. True, reading the ADEA as written to apply to States and political subdivisions regardless of size gives the ADEA, in this regard, a broader reach than Title VII. But this disparity is a consequence of the different language Congress chose to employ. See *Gross* v. *FBL Financial Services, Inc.*, 557 U. S. 167, 174 (2009) (differences between Title VII's and the ADEA's language should not be ignored). The better comparator is the FLSA, on which many aspects of the ADEA are based. See 29 U. S. C. § 626(b) (ADEA incorporates the "powers, remedies, and procedures" of the FLSA). Like the FLSA, the ADEA ranks States and political subdivisions as "employer[s]" regardless of the number of employees they have.

---

[2] We need not linger over possible applications of the agent clause, for no question of agent liability is before us in this case.

The Fire District warns that applying the ADEA to small public entities risks curtailment of vital public services such as fire protection. Experience suggests otherwise. For 30 years, the Equal Employment Opportunity Commission has consistently interpreted the ADEA as we do today. EEOC Compliance Manual: Threshold Issues §2–III(B)(1)(a)(i), and n. 99. See also *Kelly*, 801 F. 2d, at 270, n. 1. And a majority of States forbid age discrimination by political subdivisions of any size; some 15 of these States subject private sector employers to age discrimination proscriptions only if they employ at least a threshold number of workers. See Brief for Respondents 28–29, and n. 6 (collecting citations). No untoward service shrinkages have been documented.

In short, the text of the ADEA's definitional provision, also its kinship to the FLSA and differences from Title VII, leave scant room for doubt that state and local governments are "employer[s]" covered by the ADEA regardless of their size.

* * *

For the reasons stated, the judgment of the Court of Appeals for the Ninth Circuit is

Affirmed.

JUSTICE KAVANAUGH took no part in the consideration or decision of this case.

Syllabus

WEYERHAEUSER CO. *v.* UNITED STATES FISH AND WILDLIFE SERVICE ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 17–71. Argued October 1, 2018—Decided November 27, 2018

The Fish and Wildlife Service administers the Endangered Species Act of 1973 on behalf of the Secretary of the Interior. In 2001, the Service listed the dusky gopher frog as an endangered species. See 16 U. S. C. §1533(a)(1). That required the Service to designate "critical habitat" for the frog. The Service proposed designating as part of that critical habitat a site in St. Tammany Parish, Louisiana, which the Service dubbed "Unit 1." The frog had once lived in Unit 1, but the land had long been used as a commercial timber plantation, and no frogs had been spotted there for decades. The Service concluded that Unit 1 met the statutory definition of unoccupied critical habitat because its rare, high-quality breeding ponds and distance from existing frog populations made it essential for the species' conservation. §1532(5)(A)(ii). The Service then commissioned a report on the probable economic impact of its proposed critical-habitat designation. §1533(b)(2). With regard to Unit 1, the report found that designation might bar future development of the site, depriving the owners of up to $33.9 million. The Service nonetheless concluded that the potential costs were not disproportionate to the conservation benefits and proceeded to designate Unit 1 as critical habitat for the dusky gopher frog.

Unit 1 is owned by petitioner Weyerhaeuser and a group of family landowners. The owners of Unit 1 sued, contending that the closed-canopy timber plantation on Unit 1 could not be critical habitat for the dusky gopher frog, which lives in open-canopy forests. The District Court upheld the designation. The landowners also challenged the Service's decision not to exclude Unit 1 from the frog's critical habitat, arguing that the Service had failed to adequately weigh the benefits of designating Unit 1 against the economic impact, had used an unreasonable methodology for estimating economic impact, and had failed to consider several categories of costs. The District Court approved the Service's methodology and declined to consider the challenge to the Service's decision not to exclude Unit 1. The Fifth Circuit affirmed, rejecting the suggestion that the "critical habitat" definition contains any habitability requirement and concluding that the Service's decision not to exclude Unit 1 was committed to agency discretion by law and was therefore unreviewable.

Held:

1. An area is eligible for designation as critical habitat under § 1533(a)(3)(A)(i) only if it is habitat for the species. That provision, the sole source of authority for critical-habit designations, states that when the Secretary lists a species as endangered he must also "designate any habitat of such species which is then considered to be critical habitat." It does not authorize the Secretary to designate the area as critical habitat unless it is also habitat for the species. The definition allows the Secretary to identify a subset of habitat that is critical, but leaves the larger category of habitat undefined. The Service does not now dispute that critical habitat must be habitat, but argues that habitat can include areas that, like Unit 1, would require some degree of modification to support a sustainable population of a given species. Weyerhaeuser urges that habitat cannot include areas where the species could not currently survive. The Service, in turn, disputes the premise that the administrative record shows that the frog could not survive in Unit 1. The Court of Appeals, which had no occasion to interpret the term "habitat" in § 1533(a)(3)(A)(i) or to assess the Service's administrative findings regarding Unit 1, should address these questions in the first instance. Pp. 19–21.

2. The Secretary's decision not to exclude an area from critical habitat under § 1533(b)(2) is subject to judicial review. The Administrative Procedure Act creates a "basic presumption of judicial review" of agency action. *Abbott Laboratories* v. *Gardner*, 387 U. S. 136, 140. The Service contends that the presumption is rebutted here because the action is "committed to agency discretion by law," 5 U. S. C. § 701(a)(2), because § 1533(b)(2) is one of those rare provisions "drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion," *Lincoln* v. *Vigil*, 508 U. S. 182, 191.

Section 1533(b)(2) describes a unified process for weighing the impact of designating an area as critical habitat. The provision's first sentence requires the Secretary to "tak[e] into consideration" economic and other impacts before designation, and the second sentence authorizes the Secretary to act on his consideration by providing that he "may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of" designation. The word "may" certainly confers discretion on the Secretary, but it does not segregate his discretionary decision not to exclude from the mandated procedure to consider the economic and other impacts of designation when making his exclusion decisions. The statute is, therefore, not "drawn so that a court would have no meaningful standard against which to judge the [Secretary's] exercise of [his] discretion" not to exclude. *Lincoln*, 508 U. S., at 191. Weyerhaeuser's claim—that the agency did not appropri-

ately consider all the relevant statutory factors meant to guide the agency in the exercise of its discretion—is the sort of claim that federal courts routinely assess when determining whether to set aside an agency decision as an abuse of discretion. The Court of Appeals should consider in the first instance the question whether the Service's assessment of the costs and benefits of designation and resulting decision not to exclude Unit 1 was arbitrary, capricious, or an abuse of discretion. Pp. 21–26.

827 F. 3d 452, vacated and remanded.

ROBERTS, C. J., delivered the opinion of the Court, in which all other Members joined, except KAVANAUGH, J., who took no part in the consideration or decision of the case.

Timothy S. Bishop argued the cause for petitioner. With him on the briefs were *Chad M. Clamage*, *Richard C. Stanley*, *James R. Johnston*, and *Zachary R. Hiatt*. *Mark Miller*, *Christina M. Martin*, *Edward B. Poitevent II*, *Damien M. Schiff*, *Anthony L. François*, *Oliver J. Dunford*, and *Jonathan Wood* filed a brief for Markle Interests, LLC, et al., respondents under this Court's Rule 12.6 in support of petitioner.

Deputy Solicitor General Kneedler argued the cause for federal respondents. With him on the brief were *Solicitor General Francisco*, *Acting Assistant Attorney General Wood*, *Jeffrey E. Sandberg*, *Andrew C. Mergen*, and *J. David Gunter II*. *David T. Goldberg*, *Pamela S. Karlan*, *John T. Buse*, and *Collette L. Adkins* filed a brief for intervenor-respondents Center for Biological Diversity et al.*

---

*Briefs of *amici curiae* urging reversal were filed for the State of Alabama et al. by *Steve Marshall*, Attorney General of Alabama, and *Eric Palmer*, Assistant Solicitor General, and by the Attorneys General for their respective States as follows: *Jahna Lindemuth* of Alaska, *Leslie Rutledge* of Arkansas, *Cynthia Coffman* of Colorado, *Christopher M. Carr* of Georgia, *Lawrence G. Wasden* of Idaho, *Derek Schmidt* of Kansas, *Jeff Landry* of Louisiana, *Bill Schuette* of Michigan, *Tim Fox* of Montana, *Doug Peterson* of Nebraska, *Adam Laxalt* of Nevada, *Michael DeWine* of Ohio, *Mike Hunter* of Oklahoma, *Alan Wilson* of South Carolina, *Ken Paxton* of Texas, *Sean D. Reyes* of Utah, *Patrick Morrisey* of West Vir-

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

The Endangered Species Act directs the Secretary of the Interior, upon listing a species as endangered, to also desig-

---

ginia, *Brad Schimel* of Wisconsin, and *Peter K. Michael* of Wyoming; for San Juan County, Utah, by *Shawn T. Welch*; for St. Tammany Parish Government by *Bernard S. Smith*; for the American Exploration & Production Council et al. by *Andrew J. Turner*, *Karma B. Brown*, *Elbert Lin*, *Peter Tolsdorf*, *Kerry L. McGrath*, *Stacy R. Linden*, and *Rae E. Cronmiller*; for the American Farm Bureau Federation et al. by *Tyson C. Kade*, *William R. Murray*, *Ellen Steen*, and *Rachel Lattimore*; for the Building Industry Legal Defense Foundation et al. by *Paul J. Beard II*; for the Cato Institute et al. by *Ilya Shapiro*, *Martin J. Newhouse*, and *John Pagliaro*; for the Cause of Action Institute by *John J. Vecchione*, *Kara E. McKenna*, and *Cynthia F. Crawford*; for the Chamber of Commerce of the United States of America by *Aaron M. Streett* and *Shane Pennington*; for the Coalition for a Sustainable Delta et al. by *Daniel J. O'Hanlon*, *Jon D. Rubin*, *Rebecca R. Akroyd*, *Paul S. Weiland*, and *Robert D. Thornton*; for the Energy and Wildlife Action Coalition by *Svend A. Brandt-Erichsen* and *Steven P. Quarles*; for the National Association of Home Builders et al. by *Thomas J. Ward*, *Jeffrey B. Augello*, and *Lawson E. Fite*; for the National Conference of State Legislatures et al. by *Bryan K. Weir*, *Thomas R. McCarthy*, *J. Michael Connolly*, and *Lisa Soronen*; for the National Federation of Independent Business Small Business Legal Center et al. by *Robert Henneke* and *Theodore Hadzi-Antich*; for the Southeastern Legal Foundation by *Kimberly S. Hermann*; for the Washington Legal Foundation et al. by *Richard A. Samp* and *Cory L. Andrews*; and for the Wyoming Stock Growers Association et al. by *Karen Budd-Falen.*

Briefs of *amici curiae* urging affirmance were filed for Defenders of Wildlife et al. by *Jason C. Rylander*; for Economists and Law Professors by *Amy J. Wildermuth*, *Amy Sinden*, and *Douglas R. Williams*; for Environmental Law Professors by *Patrick Parenteau*, *Daniel Rohlf*, and *Hope M. Babcock*; for Evangelical Environmental Network et al. by *Ian Weinstein* and *Michael W. Martin*; for Former Department of the Interior Officials by *Ann E. Prezyna* and *Jessica N. Walder*; for Gopher Frog Experts by *Lisa W. Jordan*; for Landowners by *Stuart Banner*; for Scientists by *Sean B. Hecht*; and for Small Business Owners by *J. Carl Cecere* and *Kevin J. Lynch.*

Briefs of *amici curiae* were filed for the Center for Constitutional Jurisprudence by *Louis A. Chaiten*, *John C. Eastman*, and *Anthony T. Caso*; and for the Institute for Policy Integrity at New York University School of Law by *Richard L. Revesz* and *Jason A. Schwartz.*

nate the "critical habitat" of the species. A group of landowners whose property was designated as critical habitat for an endangered frog challenged the designation. The landowners urge that their land cannot be *critical* habitat because it is not *habitat*, which they contend refers only to areas where the frog could currently survive. The court below ruled that the Act imposed no such limitation on the scope of critical habitat.

The Act also authorizes the Secretary to exclude an area that would otherwise be included as critical habitat, if the benefits of exclusion outweigh the benefits of designation. The landowners challenged the decision of the Secretary not to exclude their property, but the court below held that the Secretary's action was not subject to judicial review.

We granted certiorari to review both rulings.

I

A

The amphibian *Rana sevosa* is popularly known as the "dusky gopher frog"—"dusky" because of its dark coloring and "gopher" because it lives underground. The dusky gopher frog is about three inches long, with a large head, plump body, and short legs. Warts dot its back, and dark spots cover its entire body. Final Rule To List the Mississippi Gopher Frog Distinct Population Segment of Dusky Gopher Frog as Endangered, 66 Fed. Reg. 62993 (2001) (Final Listing). It is noted for covering its eyes with its front legs when it feels threatened, peeking out periodically until danger passes. *Markle Interests, LLC* v. *United States Fish and Wildlife Serv.*, 827 F. 3d 452, 458, n. 2 (CA5 2016). Less endearingly, it also secretes a bitter, milky substance to deter would-be diners. Brief for Intervenor-Respondents 6, n. 1.

The frog spends most of its time in burrows and stump holes located in upland longleaf pine forests. In such forests, frequent fires help maintain an open canopy, which in turn allows vegetation to grow on the forest floor. The veg-

etation supports the small insects that the frog eats and provides a place for the frog's eggs to attach when it breeds. The frog breeds in "ephemeral" ponds that are dry for part of the year. Such ponds are safe for tadpoles because predatory fish cannot live in them. Designation of Critical Habitat for Dusky Gopher Frog, 77 Fed. Reg. 35129–35131 (2012) (Designation).

The dusky gopher frog once lived throughout coastal Alabama, Louisiana, and Mississippi, in the longleaf pine forests that used to cover the southeast. But more than 98% of those forests have been removed to make way for urban development, agriculture, and timber plantations. The timber plantations consist of fast-growing loblolly pines planted as close together as possible, resulting in a closed-canopy forest inhospitable to the frog. The near eradication of the frog's habitat sent the species into severe decline. By 2001, the known wild population of the dusky gopher frog had dwindled to a group of 100 at a single pond in southern Mississippi. That year, the Fish and Wildlife Service, which administers the Endangered Species Act of 1973 on behalf of the Secretary of the Interior, listed the dusky gopher frog as an endangered species. Final Listing 62993–62995; see 87 Stat. 886, 16 U. S. C. § 1533(a)(1).

B

When the Secretary lists a species as endangered, he must also designate the critical habitat of that species. § 1533(a)(3)(A)(i). The ESA defines "critical habitat" as:

> "(i) the specific areas within the geographical area occupied by the species . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and
>
> "(ii) specific areas outside the geographical area occupied by the species . . . upon a determination by the

> Secretary that such areas are essential for the conservation of the species." § 1532(5)(A).

Before the Secretary may designate an area as critical habitat, the ESA requires him to "tak[e] into consideration the economic impact" and other relevant impacts of the designation. § 1533(b)(2). The statute goes on to authorize him to "exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of [designation]," unless exclusion would result in extinction of the species. *Ibid.*

A critical-habitat designation does not directly limit the rights of private landowners. It instead places conditions on the Federal Government's authority to effect any physical changes to the designated area, whether through activities of its own or by facilitating private development. Section 7 of the ESA requires all federal agencies to consult with the Secretary to "[e]nsure that any action authorized, funded, or carried out by such agency" is not likely to adversely affect a listed species' critical habitat. 16 U. S. C. § 1536(a)(2). If the Secretary determines that an agency action, such as issuing a permit, would harm critical habitat, then the agency must terminate the action, implement an alternative proposed by the Secretary, or seek an exemption from the Cabinet-level Endangered Species Committee. See *National Assn. of Home Builders* v. *Defenders of Wildlife*, 551 U. S. 644, 652 (2007); 50 CFR §402.15 (2017).

Due to resource constraints, the Service did not designate the frog's critical habitat in 2001, when it listed the frog as endangered. Designation, at 35118–35119. In the following years, the Service discovered two additional naturally occurring populations and established another population through translocation. The first population nonetheless remains the only stable one and by far the largest. Dept. of Interior, U. S. Fish and Wildlife Serv., Dusky Gopher Frog (*Rana sevosa*) Recovery Plan iv, 6–7 (2015).

In 2010, in response to litigation by the Center for Biological Diversity, the Service published a proposed critical-habitat designation. Designation, at 35119. The Service proposed to designate as occupied critical habitat all four areas with existing dusky gopher frog populations. The Service found that each of those areas possessed the three features that the Service considered "essential to the conservation" of the frog and that required special protection: ephemeral ponds; upland open-canopy forest containing the holes and burrows in which the frog could live; and open-canopy forest connecting the two. But the Service also determined that designating only those four sites would not adequately ensure the frog's conservation. Because the existing dusky gopher frog populations were all located in two adjacent counties on the Gulf Coast of Mississippi, local events such as extreme weather or an outbreak of an infectious disease could jeopardize the entire species. Designation of Critical Habitat for Mississippi Gopher Frog, 75 Fed. Reg. 31394 (2010) (proposed 50 CFR pt. 17).

To protect against that risk, the Service proposed to designate as *unoccupied* critical habitat a 1,544-acre site in St. Tammany Parish, Louisiana. The site, dubbed "Unit 1" by the Service, had been home to the last known population of dusky gopher frogs outside of Mississippi. The frog had not been seen in Unit 1 since 1965, and a closed-canopy timber plantation occupied much of the site. But the Service found that the site retained five ephemeral ponds "of remarkable quality," and determined that an open-canopy forest could be restored on the surrounding uplands "with reasonable effort." Although the uplands in Unit 1 lacked the open-canopy forests (and, of course, the frogs) necessary for designation as occupied critical habitat, the Service concluded that the site met the statutory definition of unoccupied critical habitat because its rare, high-quality breeding ponds and its distance from existing frog populations made

it essential for the conservation of the species. Designation, at 35118, 35124, 35133, 35135.

After issuing its proposal, the Service commissioned a report on the probable economic impact of designating each area, including Unit 1, as critical habitat for the dusky gopher frog. See 16 U. S. C. § 1533(b)(2); App. 63. Petitioner Weyerhaeuser Company, a timber company, owns part of Unit 1 and leases the remainder from a group of family landowners. Brief for Petitioner 16. While the critical-habitat designation has no direct effect on the timber operations, St. Tammany Parish is a fast-growing part of the New Orleans metropolitan area, and the landowners have already invested in plans to more profitably develop the site. App. 80–83. The report recognized that anyone developing the area may need to obtain Clean Water Act permits from the Army Corps of Engineers before filling any wetlands on Unit 1. 33 U. S. C. § 1344(a). Because Unit 1 is designated as critical habitat, Section 7 of the ESA would require the Corps to consult with the Service before issuing any permits.

According to the report, that consultation process could result in one of three outcomes. First, it could turn out that the wetlands in Unit 1 are not subject to the Clean Water Act permitting requirements, in which case the landowners could proceed with their plans unimpeded. Second, the Service could ask the Corps not to issue permits to the landowners to fill some of the wetlands on the site, in effect prohibiting development on 60% of Unit 1. The report estimated that this would deprive the owners of $20.4 million in development value. Third, by asking the Corps to deny even more of the permit requests, the Service could bar all development of Unit 1, costing the owners $33.9 million. The Service concluded that those potential costs were not "disproportionate" to the conservation benefits of designation. "Consequently," the Service announced, it would not

"exercis[e] [its] discretion to exclude" Unit 1 from the dusky gopher frog's critical habitat. App. 188–190.

C

Weyerhaeuser and the family landowners sought to vacate the designation in Federal District Court. They contended that Unit 1 could not be critical habitat for the dusky gopher frog because the frog could not survive there: Survival would require replacing the closed-canopy timber plantation encircling the ponds with an open-canopy longleaf pine forest. The District Court nonetheless upheld the designation. *Markle Interests, LLC* v. *United States Fish and Wildlife Serv.*, 40 F. Supp. 3d 744 (ED La. 2014). The court determined that Unit 1 satisfied the statutory definition of unoccupied critical habitat, which requires only that the Service deem the land "essential for the conservation [of] the species." *Id.*, at 760.

Weyerhaeuser also challenged the Service's decision not to exclude Unit 1 from the dusky gopher frog's critical habitat, arguing that the Service had failed to adequately weigh the benefits of designating Unit 1 against the economic impact. In addition, Weyerhaeuser argued that the Service had used an unreasonable methodology for estimating economic impact and, regardless of methodology, had failed to consider several categories of costs. *Id.*, at 759. The court approved the Service's methodology and declined to consider Weyerhaeuser's challenge to the decision not to exclude. See *id.*, at 763–767, and n. 29.

The Fifth Circuit affirmed. 827 F. 3d 452. The Court of Appeals rejected the suggestion that the definition of critical habitat contains any "habitability requirement." *Id.*, at 468. The court also concluded that the Service's decision not to exclude Unit 1 was committed to agency discretion by law and was therefore unreviewable. *Id.*, at 473–475. Judge Owen dissented. She wrote that Unit 1 could not be "essential for the conservation of the species" because it lacked the

open-canopy forest that the Service itself had determined was "essential to the conservation" of the frog. *Id.*, at 480, and n. 1.

The Fifth Circuit denied rehearing en banc. *Markle Interests, LLC* v. *United States Fish and Wildlife Serv.*, 848 F. 3d 635 (2017). Judge Jones dissented, joined by Judges Jolly, Smith, Clement, Owen, and Elrod. They reasoned that critical habitat must first be habitat, and Unit 1 in its present state could not be habitat for the dusky gopher frog. *Id.*, at 641. The dissenting judges also concluded that the Service's decision not to exclude Unit 1 was reviewable for abuse of discretion. *Id.*, at 654, and n. 21.

We granted certiorari to consider two questions: (1) whether "critical habitat" under the ESA must also be habitat; and (2) whether a federal court may review an agency decision not to exclude a certain area from critical habitat because of the economic impact of such a designation. 583 U. S. 1101 (2018).[1]

II

A

Our analysis starts with the phrase "critical habitat." According to the ordinary understanding of how adjectives work, "critical habitat" must also be "habitat." Adjectives modify nouns—they pick out a subset of a category that possesses a certain quality. It follows that "critical habitat" is

[1] Intervenor Center for Biological Diversity raises an additional question in its brief, arguing that Weyerhaeuser lacks standing to challenge the critical-habitat designation because it has not suffered an injury in fact. We agree with the lower courts that the decrease in the market value of Weyerhaeuser's land as a result of the designation is a sufficiently concrete injury for Article III purposes. See *Village of Euclid* v. *Ambler Realty Co.*, 272 U. S. 365, 386 (1926) (holding that a zoning ordinance that "greatly . . . reduce[d] the value of appellee's lands and destroy[ed] their marketability for industrial, commercial and residential uses" constituted a "present invasion of appellee's property rights").

the subset of "habitat" that is "critical" to the conservation of an endangered species.

Of course, "[s]tatutory language cannot be construed in a vacuum," *Sturgeon* v. *Frost*, 577 U. S. 424, 438 (2016) (internal quotation marks omitted), and so we must also consider "critical habitat" in its statutory context. Section 4(a)(3)(A)(i), which the lower courts did not analyze, is the sole source of authority for critical-habitat designations. That provision states that when the Secretary lists a species as endangered he must also "designate any *habitat of such species* which is then considered to be critical habitat." 16 U. S. C. § 1533(a)(3)(A)(i) (emphasis added). Only the "habitat" of the endangered species is eligible for designation as critical habitat. Even if an area otherwise meets the statutory definition of unoccupied critical habitat because the Secretary finds the area essential for the conservation of the species, Section 4(a)(3)(A)(i) does not authorize the Secretary to designate the area as *critical* habitat unless it is also *habitat* for the species.

The Center for Biological Diversity contends that the statutory definition of critical habitat is complete in itself and does not require any independent inquiry into the meaning of the term "habitat," which the statute leaves undefined. Brief for Intervenor-Respondents 43–49. But the statutory definition of "critical habitat" tells us what makes habitat "critical," not what makes it "habitat." Under the statutory definition, critical habitat comprises areas occupied by the species "on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection," as well as unoccupied areas that the Secretary determines to be "essential for the conservation of the species." 16 U. S. C. § 1532(5)(A). That is no baseline definition of habitat—it identifies only certain areas that are indispensable to the conservation of the endangered species. The definition allows the Secretary to identify the subset

of habitat that is critical, but leaves the larger category of habitat undefined.

The Service does not now dispute that critical habitat must be habitat, see Brief for Federal Respondents 23, although it made no such concession below. Instead, the Service argues that habitat includes areas that, like Unit 1, would require some degree of modification to support a sustainable population of a given species. *Id.*, at 27. Weyerhaeuser, for its part, urges that habitat cannot include areas where the species could not currently survive. Brief for Petitioner 25. (Habitat can, of course, include areas where the species does not currently *live*, given that the statute defines critical habitat to include unoccupied areas.) The Service in turn disputes Weyerhaeuser's premise that the administrative record shows that the frog could not survive in Unit 1. Brief for Federal Respondents 22, n. 4.

The Court of Appeals concluded that "critical habitat" designations under the statute were not limited to areas that qualified as habitat. See 827 F. 3d, at 468 ("There is no habitability requirement in the text of the ESA or the implementing regulations."). The court therefore had no occasion to interpret the term "habitat" in Section 4(a)(3)(A)(i) or to assess the Service's administrative findings regarding Unit 1. Accordingly, we vacate the judgment below and remand to the Court of Appeals to consider these questions in the first instance.[2]

B

Weyerhaeuser also contends that, even if Unit 1 could be properly classified as critical habitat for the dusky gopher

---

[2] Because we hold that an area is eligible for designation as critical habitat under Section 4(a)(3)(A)(i) only if it is habitat for the species, it is not necessary to consider the landowners' argument that land cannot be "essential for the conservation of the species," and thus cannot satisfy the statutory definition of unoccupied critical habitat, if it is not habitat for the species. See Brief for Petitioner 27–28; Brief for Respondent Markle Interests, LLC, et al. in Support of Petitioner 28–31.

frog, the Service should have excluded it from designation under Section 4(b)(2) of the ESA. That provision requires the Secretary to "tak[e] into consideration the economic impact . . . of specifying any particular area as critical habitat" and authorizes him to "exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat." 16 U. S. C. § 1533(b)(2). To satisfy its obligation to consider economic impact, the Service commissioned a report estimating the costs of its proposed critical-habitat designation. The Service concluded that the costs of designating the proposed areas, including Unit 1, were not "disproportionate" to the conservation benefits and, "[c]onsequently," declined to make any exclusions.

Weyerhaeuser claims that the Service's conclusion rested on a faulty assessment of the costs and benefits of designation and that the resulting decision not to exclude should be set aside. Specifically, Weyerhaeuser contends that the Service improperly weighed the costs of designating Unit 1 against the benefits of designating *all* proposed critical habitat, rather than the benefits of designating Unit 1 in particular. Weyerhaeuser also argues that the Service did not fully account for the economic impact of designating Unit 1 because it ignored, among other things, the costs of replacing timber trees with longleaf pines, maintaining an open canopy through controlled burning, and the tax revenue that St. Tammany Parish would lose if Unit 1 were never developed. Brief for Petitioner 53–54. The Court of Appeals did not consider Weyerhaeuser's claim because it concluded that a decision not to exclude a certain area from critical habitat is unreviewable.

The Administrative Procedure Act creates a "basic presumption of judicial review [for] one 'suffering legal wrong because of agency action.'" *Abbott Laboratories* v. *Gardner*, 387 U. S. 136, 140 (1967) (quoting 5 U. S. C. § 702). As we explained recently, "legal lapses and violations occur, and

especially so when they have no consequence. That is why this Court has so long applied a strong presumption favoring judicial review of administrative action." *Mach Mining, LLC* v. *EEOC*, 575 U. S. 480, 489 (2015). The presumption may be rebutted only if the relevant statute precludes review, 5 U. S. C. § 701(a)(1), or if the action is "committed to agency discretion by law," § 701(a)(2). The Service contends, and the lower courts agreed, that Section 4(b)(2) of the ESA commits to the Secretary's discretion decisions not to exclude an area from critical habitat.

This Court has noted the "tension" between the prohibition of judicial review for actions "committed to agency discretion" and the command in § 706(2)(A) that courts set aside any agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Heckler* v. *Chaney*, 470 U. S. 821, 829 (1985). A court could never determine that an agency abused its discretion if all matters committed to agency discretion were unreviewable. To give effect to § 706(2)(A) and to honor the presumption of review, we have read the exception in § 701(a)(2) quite narrowly, restricting it to "those rare circumstances where the relevant statute is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion." *Lincoln* v. *Vigil*, 508 U. S. 182, 191 (1993). The Service contends that Section 4(b)(2) of the ESA is one of those rare statutory provisions.

There is, at the outset, reason to be skeptical of the Service's position. The few cases in which we have applied the § 701(a)(2) exception involved agency decisions that courts have traditionally regarded as unreviewable, such as the allocation of funds from a lump-sum appropriation, *id.*, at 191, or a decision not to reconsider a final action, *ICC* v. *Locomotive Engineers*, 482 U. S. 270, 282 (1987). By contrast, this case involves the sort of routine dispute that federal courts regularly review: An agency issues an order affecting the rights of a private party, and the private party

objects that the agency did not properly justify its determination under a standard set forth in the statute.

Section 4(b)(2) states that the Secretary

> "shall designate critical habitat . . . after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area . . . unless he determines . . . that the failure to designate such area as critical habitat will result in the extinction of the species concerned." 16 U. S. C. § 1533(b)(2).

Although the text meanders a bit, we recognized in *Bennett* v. *Spear*, 520 U. S. 154 (1997), that the provision describes a unified process for weighing the impact of designating an area as critical habitat. The first sentence of Section 4(b)(2) imposes a "categorical requirement" that the Secretary "tak[e] into consideration" economic and other impacts before such a designation. *Id.*, at 172 (emphasis deleted). The second sentence authorizes the Secretary to act on his consideration by providing that he may exclude an area from critical habitat if he determines that the benefits of exclusion outweigh the benefits of designation. The Service followed that procedure here (albeit in a flawed manner, according to Weyerhaeuser). It commissioned a report to estimate the costs of designating the proposed critical habitat, concluded that those costs were not "disproportionate" to the benefits of designation, and "[c]onsequently" declined to "exercis[e] [its] discretion to exclude any areas from [the] designation of critical habitat." App. 190.

Bennett explained that the Secretary's "ultimate decision" to designate or exclude, which he "arriv[es] at" after considering economic and other impacts, is reviewable "for abuse of discretion." 520 U. S., at 172. The Service dismisses that

language as a "passing reference . . . not necessarily inconsistent with the Service's understanding," which is that the Secretary's decision not to exclude an area is wholly discretionary and therefore unreviewable. Brief for Federal Respondents 50. The Service bases its understanding on the second sentence of Section 4(b)(2), which states that the Secretary "*may* exclude [an] area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of [designation]." (Emphasis added.)

The use of the word "may" certainly confers discretion on the Secretary. That does not, however, segregate his discretionary decision not to exclude from the procedure mandated by Section 4(b)(2), which directs the Secretary to consider the economic and other impacts of designation when making his exclusion decisions. Weyerhaeuser's claim is the familiar one in administrative law that the agency did not appropriately consider all of the relevant factors that the statute sets forth to guide the agency in the exercise of its discretion. Specifically, Weyerhaeuser contends that the Service ignored some costs and conflated the benefits of designating Unit 1 with the benefits of designating all of the proposed critical habitat. This is the sort of claim that federal courts routinely assess when determining whether to set aside an agency decision as an abuse of discretion under 5 U. S. C. § 706(2)(A). See *Judulang* v. *Holder*, 565 U. S. 42, 53 (2011) ("When reviewing an agency action, we must assess . . . whether the decision was based on a consideration of the relevant factors and whether there has been a clear error of judgment." (internal quotation marks omitted)).

Section 4(b)(2) requires the Secretary to consider economic impact and relative benefits before deciding whether to exclude an area from critical habitat or to proceed with designation. The statute is, therefore, not "drawn so that a court would have no meaningful standard against which to judge the [Secretary's] exercise of [his] discretion" not to exclude. *Lincoln*, 508 U. S., at 191.

Because it determined that the Service's decisions not to exclude were committed to agency discretion and therefore unreviewable, the Court of Appeals did not consider whether the Service's assessment of the costs and benefits of designation was flawed in a way that rendered the resulting decision not to exclude Unit 1 arbitrary, capricious, or an abuse of discretion. Accordingly, we remand to the Court of Appeals to consider that question, if necessary, in the first instance.

* * *

The judgment of the Court of Appeals for the Fifth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE KAVANAUGH took no part in the consideration or decision of this case.

Syllabus

UNITED STATES *v.* STITT

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 17–765. Argued October 9, 2018—Decided December 10, 2018*

Respondents Victor J. Stitt and Jason Daniel Sims were each convicted in federal court of unlawfully possessing a firearm, in violation of 18 U. S. C. § 922(g)(1). The sentencing judge in each case imposed the mandatory minimum 15-year prison term that the Armed Career Criminal Act requires for § 922(g)(1) offenders who have at least three previous convictions for certain "violent" or drug-related felonies, § 924(e)(1). The Act defines "violent felony" to mean, among other things, "any crime punishable by imprisonment for a term exceeding one year . . . that . . . is burglary." § 924(e)(2)(B). Respondents' prior convictions were for violations of state burglary statutes—a Tennessee statute in Stitt's case and an Arkansas statute in Sims' case—that prohibit burglary of a structure or vehicle that has been adapted or is customarily used for overnight accommodation. In both cases, the District Courts found that the state statutory crimes fell within the scope of the federal Act's term "burglary." The relevant Court of Appeals in each case disagreed, vacated the sentence, and remanded for resentencing.

Held:

1. The term "burglary" in the Armed Career Criminal Act includes burglary of a structure or vehicle that has been adapted or is customarily used for overnight accommodation. Pp. 31–36.

(a) In deciding whether an offense qualifies as a violent felony under the Act, the categorical approach first adopted in *Taylor* v. *United States*, 495 U. S. 575, requires courts to evaluate a prior state conviction by reference to the elements of the state offense, rather than to the defendant's behavior on a particular occasion. A prior state conviction does not qualify as generic burglary under the Act where "the elements of [the relevant state statute] are broader than those of generic burglary." *Mathis* v. *United States*, 579 U. S. 500, 520. *Taylor*, which specifically considered the statutory term "burglary" and defined the elements of generic burglary as "an unlawful or unprivileged entry into, or remaining in, a building or other structure, with intent to commit a

---

*Together with No. 17–766, *United States* v. *Sims*, on certiorari to the United States Court of Appeals for the Eighth Circuit.

crime," 495 U. S., at 598, governs and determines the outcome here. Pp. 31–33.

(b) The state statutes at issue here fall within the scope of *Taylor*'s definition of generic burglary. Congress intended that definition to reflect "the generic sense in which the term [was] used in the criminal codes of most States" when the Act was passed. 495 U. S., at 598. And at that time, a majority of state burglary statutes covered vehicles adapted or customarily used for lodging. Congress also viewed burglary as an inherently dangerous crime that "creates the possibility of a violent confrontation" between the offender and an occupant or someone who comes to investigate. *Id.*, at 588. An offender who breaks into a mobile home, an RV, a camping tent, or another structure or vehicle that is adapted or customarily used for lodging creates a similar or greater risk of violent confrontation. Although the risk of violence is diminished if the vehicle is only used for lodging part of the time, the Court finds no reason to believe that Congress intended to make a part-time/full-time distinction. Respondents also argue that the vehicles covered here are analogous to the nontypical structures and vehicles that *Taylor*, *Mathis*, and other cases described as falling outside the scope of generic burglary, but none of those prior cases presented the question whether generic burglary includes structures or vehicles that are adapted or customarily used for overnight use. Pp. 33–36.

2. Sims' case is remanded for further proceedings. His argument that Arkansas' residential burglary statute is too broad to count as generic burglary because it also covers burglary of "a vehicle . . . [w]here any person lives," Ark. Code Ann. §5–39–101(1)(A), rests in part upon state law, and the lower courts have not considered it. Those courts remain free to determine whether Sims properly presented that argument and, if so, to decide the merits. Pp. 36–37.

No. 17–765, 860 F. 3d 854, reversed; No. 17–766, 854 F. 3d 1037, vacated and remanded.

BREYER, J., delivered the opinion for a unanimous Court.

Erica L. Ross argued the cause for the United States. With her on the briefs were *Solicitor General Francisco*, *Acting Assistant Attorney General Cronan*, *Eric J. Feigin*, *David M. Lieberman*, and *Francesco Valentini*.

Jeffrey L. Fisher, by appointment of the Court in No. 17–766, 585 U. S. 1057, argued the cause for respondents in both cases. With him on the brief were *Bradley N. Garcia*, *Chris*

Tarver, and *Pamela S. Karlan*. *Stephen Newman*, *Timothy C. Ivey*, and *Catherine Adinaro* filed a brief for respondent in No. 17–765.†

JUSTICE BREYER delivered the opinion of the Court.

The Armed Career Criminal Act requires a federal sentencing judge to impose upon certain persons convicted of unlawfully possessing a firearm a 15-year minimum prison term. The judge is to impose that special sentence if the offender also has three prior convictions for certain violent or drug-related crimes. 18 U. S. C. § 924(e). Those prior convictions include convictions for "burglary." § 924(e)(2)(B)(ii). And the question here is whether the statutory term "burglary" includes burglary of a structure or vehicle that has been adapted or is customarily used for overnight accommodation. We hold that it does.

I

The consolidated cases before us involve two defendants, each of whom was convicted in a federal court of unlawfully possessing a firearm in violation of § 922(g)(1). The maximum punishment for this offense is typically 10 years in prison. § 924(a)(2). Each offender, however, had prior state burglary convictions sufficient, at least potentially, to require the sentencing judge to impose a mandatory 15-year minimum prison term under the Armed Career Criminal Act. That Act, as we have just said, requires an enhanced sentence for offenders who have at least three previous convictions for certain "violent" or drug-related felonies. § 924(e)(1). Those prior felonies include "any crime" that is

†*David Debold* and *Jeffrey T. Green* filed a brief for the National Association of Criminal Defense Lawyers as *amicus curiae* urging affirmance.

Michael C. Holley, *Donna F. Coltharp*, and *Daniel L. Kaplan* filed a brief for the National Association of Federal Defenders as *amicus curiae*.

"punishable by imprisonment for a term exceeding one year" and that also

> "(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or
> "(ii) is *burglary*, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another." § 924(e)(2)(B) (emphasis added).

The question here concerns the scope of the statutory word "burglary."

The relevant prior convictions of one of the unlawful firearms offenders, Victor J. Stitt, were for violations of a Tennessee statute that defines "[a]ggravated burglary" as "burglary of a habitation." Tenn. Code Ann. § 39–14–403(a) (1997). It further defines "[h]abitation" to include: (1) "any structure, including . . . mobile homes, trailers, and tents, which is *designed or adapted for the overnight accommodation of persons*," and (2) any "self-propelled vehicle that is *designed or adapted for the overnight accommodation of persons* and is actually occupied at the time of initial entry by the defendant." §§ 39–14–401(1)(A), (B) (emphasis added).

The relevant prior convictions of the other unlawful firearms offender, Jason Daniel Sims, were for violations of an Arkansas statute that prohibits burglary of a "residential occupiable structure." Ark. Code Ann. § 5–39–201(a)(1) (1997). The statute defines "[r]esidential occupiable structure" to include:

> "a vehicle, building, or other structure:
> "(A) [w]here any person lives; or
> "(B) [w]hich is *customarily used for overnight accommodation of persons* whether or not a person is actually present." § 5–39–101(1) (emphasis added).

In both cases, the District Courts found that the state statutory crimes fell within the scope of the word "burglary" in the Armed Career Criminal Act and consequently imposed that statute's mandatory sentence enhancement. In both cases, the relevant Federal Court of Appeals held that the statutory crimes did not fall within the scope of the word "burglary," vacated the sentence, and remanded for resentencing. See 860 F. 3d 854 (CA6 2017) (en banc) (reversing panel decision to the contrary); 854 F. 3d 1037 (CA8 2017).

The Government asked us to grant certiorari to consider the question "[w]hether burglary of a nonpermanent or mobile structure that is adapted or used for overnight accommodation can qualify as 'burglary' under the Armed Career Criminal Act." Pet. for Cert. in No. 17–765, p. I; Pet. for Cert. in No. 17–766, p. I. And, in light of uncertainty about the scope of the term "burglary" in the lower courts, we granted the Government's request. Compare 860 F. 3d, at 862–863; 854 F. 3d, at 1040; *United States* v. *White*, 836 F. 3d 437, 446 (CA4 2016); *United States* v. *Grisel*, 488 F. 3d 844 (CA9 2007) (en banc), with *Smith* v. *United States*, 877 F. 3d 720, 724 (CA7 2017), cert. pending, No. 17–7517; *United States* v. *Spring*, 80 F. 3d 1450, 1462 (CA10 1996).

II

A

The word "burglary," like the word "crime" itself, is ambiguous. It might refer to a kind of crime, a generic crime, as set forth in a statute ("a burglary consists of behavior that . . . "), or it might refer to the way in which an individual offender acted on a particular occasion ("on January 25, Jones committed a burglary on Oak Street in South San Francisco"). We have held that the words in the Armed Career Criminal Act do the first. Accordingly, we have held that the Act requires us to evaluate a prior state conviction "in terms of how the law defines the offense and not in terms

of how an individual offender might have committed it on a particular occasion." *Begay* v. *United States*, 553 U. S. 137, 141 (2008). A prior state conviction, we have said, does not qualify as generic burglary under the Act where "the elements of [the relevant state statute] are broader than those of generic burglary." *Mathis* v. *United States*, 579 U. S. 500, 520 (2016). The case in which we first adopted this "categorical approach" is *Taylor* v. *United States*, 495 U. S. 575 (1990). That case, which specifically considered the statutory term "burglary," governs here and determines the outcome.

In *Taylor*, we did more than hold that the word "burglary" refers to a kind of generic crime rather than to the defendant's behavior on a particular occasion. We also explained, after examining the Act's history and purpose, that Congress intended a "uniform definition of burglary [to] be applied to all cases in which the Government seeks" an enhanced sentence under the Act. *Id.*, at 580–592. We held that this uniform definition includes "at least the 'classic' common-law definition," namely, breaking and entering a dwelling at night with intent to commit a felony. *Id.*, at 593. But we added that it must include more. The classic definition, by excluding all places other than dwellings, we said, has "little relevance to modern law enforcement concerns." *Ibid.* Perhaps for that reason, by the time the Act was passed in 1986, most States had expanded the meaning of burglary to include "structures other than dwellings." *Ibid.* (citing W. LaFave & A. Scott, Substantive Criminal Law §§ 8.13(a)–(f) (1986)).

In addition, the statute's purpose, revealed by its language, ruled out limiting the scope of "burglary" to especially serious burglaries, *e. g.*, those having elements that created a particularly serious risk of physical harm. If that had been Congress' intent, adding the word "burglary" would have been unnecessary, since the (now-invalid) resid-

ual clause "already include[d] *any* crime that 'involves conduct that presents a serious potential risk of physical injury to another.'" *Taylor*, 495 U. S., at 597 (quoting 18 U. S. C. § 924(e)(2)(B)(ii)); see *Johnson* v. *United States*, 576 U. S. 591, 597–602 (2015) (holding residual clause unconstitutionally vague). We concluded that the Act's term "burglary" must include "ordinary," "run-of-the-mill" burglaries as well as aggravated ones. *Taylor*, 495 U. S., at 597. And we defined the elements of generic "burglary" as "an unlawful or unprivileged entry into, or remaining in, a building or other structure, with intent to commit a crime." *Id.*, at 598.

B

The relevant language of the Tennessee and Arkansas statutes falls within the scope of generic burglary's definition as set forth in *Taylor*. For one thing, we made clear in *Taylor* that Congress intended the definition of "burglary" to reflect "the generic sense in which the term [was] used in the criminal codes of most States" at the time the Act was passed. *Ibid.* In 1986, a majority of state burglary statutes covered vehicles adapted or customarily used for lodging—either explicitly or by defining "building" or "structure" to include those vehicles. See, *e. g.*, N. H. Rev. Stat. Ann. § 635:1 (1974) (prohibiting burglary of an "[o]ccupied structure," defined to include "any structure, vehicle, boat or place adapted for overnight accommodation of persons"); Ore. Rev. Stat. §§ 164.205, 164.215, 164.225 (1985) (prohibiting burglary of a "building," defined to include "any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodation of persons"); see also ALI, Model Penal Code §§ 220.0(1), 221.1(1) (1980) (defining "'occupied structure'" for purposes of burglary as "any structure, vehicle or place adapted for overnight accommodation of persons, or for carrying on business therein, whether or not a person is actually present"); Appendix, *infra* (collecting burglary

statutes from 1986 or earlier that covered either vehicles adapted or customarily used for overnight accommodation or a broader class of vehicles).

For another thing, Congress, as we said in *Taylor*, viewed burglary as an inherently dangerous crime because burglary "creates the possibility of a violent confrontation between the offender and an occupant, caretaker, or some other person who comes to investigate." 495 U. S., at 588; see also *James* v. *United States*, 550 U. S. 192, 203 (2007). An offender who breaks into a mobile home, an RV, a camping tent, a vehicle, or another structure that is adapted for or customarily used for lodging runs a similar or greater risk of violent confrontation. See *Spring*, 80 F. 3d, at 1462 (noting the greater risk of confrontation in a mobile home or camper, where "it is more difficult for the burglar to enter or escape unnoticed").

Although, as respondents point out, the risk of violence is diminished if, for example, a vehicle is only used for lodging part of the time, we have no reason to believe that Congress intended to make a part-time/full-time distinction. After all, a burglary is no less a burglary because it took place at a summer home during the winter, or a commercial building during a holiday. Cf. Model Penal Code § 221.1, Comment 3(b), p. 72 (burglary should cover places with the "apparent potential for regular occupancy").

Respondents make several additional arguments. Respondent Stitt argues that the Tennessee statute is too broad even under the Government's definition of generic burglary. That is so, Stitt contends, because the statute covers the burglary of a "structure appurtenant to or connected with" a covered structure or vehicle, a provision that Stitt reads to include the burglary of even ordinary vehicles that are plugged in or otherwise appurtenant to covered structures. Tenn. Code Ann. § 39–14–401(1)(C). Stitt's interpretation, however, ignores that the "appurtenant to" provision extends only to "structure[s]," not to the separate statutory

term "vehicle[s]." *Ibid.* We therefore disagree with Stitt's argument that the "appurtenant to" provision sweeps more broadly than generic burglary, as defined in *Taylor*, 495 U. S., at 598.

Respondents also point out that in *Taylor*, *Mathis*, and other cases, we said that burglary of certain nontypical structures and vehicles fell outside the scope of the federal Act's statutory word "burglary." See, *e. g.*, *Taylor*, 495 U. S., at 599 (noting that some States "define burglary more broadly" than generic burglary by, for example, "including places, such as automobiles and vending machines, other than buildings"). And they argue that the vehicles covered here are analogous to the nontypical structures and vehicles to which the Court referred in those cases. Our examination of those cases, however, convinces us that we did not decide in either case the question now before us.

In *Taylor*, for example, we referred to a Missouri breaking and entering statute that among other things criminalized breaking and entering "'*any* boat or vessel, or railroad car.'" *Ibid.* (quoting Mo. Rev. Stat. § 560.070 (1969); emphasis added). We did say that that particular provision was beyond the scope of the federal Act. But the statute used the word "any"; it referred to ordinary boats and vessels often at sea (and railroad cars often filled with cargo, not people), nowhere restricting its coverage, as here, to vehicles or structures customarily used or adapted for overnight accommodation. The statutes before us, by using these latter words, more clearly focus upon circumstances where burglary is likely to present a serious risk of violence.

In *Mathis*, we considered an Iowa statute that covered "any building, structure, . . . land, water or air vehicle, or similar place adapted for overnight accommodation of persons [or used] for the storage or safekeeping of anything of value." Iowa Code § 702.12 (2013). Courts have construed that statute to cover ordinary vehicles because they can be used for storage or safekeeping. See *State* v. *Buss*, 325

N. W. 2d 384 (Iowa 1982); *Weaver* v. *Iowa*, 949 F. 2d 1049 (CA8 1991). That is presumably why, as we wrote in our opinion, "all parties agree[d]" that Iowa's burglary statute "covers more conduct than generic burglary does." *Mathis*, 579 U. S., at 507. The question before us was whether federal generic "burglary" includes within its scope a burglary statute that lists multiple, alternative means of satisfying one element, some of which fall within *Taylor*'s generic definition and some of which fall outside it. We held, in light of the parties' agreement that the Iowa statute covered some "outside" behavior (*i. e.*, ordinary vehicles), that the statute did not count as a generic burglary statute. But for present purposes, what matters is that the Court in *Mathis* did not decide the question now before us—that is, whether coverage of vehicles designed or adapted for overnight use takes the statute outside the generic burglary definition. We now decide that latter question, and, for the reasons we have stated, we hold that it does not.

III

Respondent Sims argues that Arkansas' residential burglary statute is too broad to count as generic burglary for a different reason, namely, because it also covers burglary of "a vehicle . . . [in which] any person lives." See *supra*, at 30. Sims adds that these words might cover a car in which a homeless person occasionally sleeps. Sims' argument rests in part upon state law, and the lower courts have not considered it. As "we are a court of review, not of first view," *Cutter* v. *Wilkinson*, 544 U. S. 709, 718, n. 7 (2005), we remand the Arkansas case to the lower courts for further proceedings. Those courts remain free to determine whether Sims properly presented the argument and to decide the merits, if appropriate.

We reverse the judgment of the Court of Appeals for the Sixth Circuit. We vacate the judgment of the

Court of Appeals for the Eighth Circuit and remand the case for further proceedings consistent with this opinion.

It is so ordered.

APPENDIX

Alaska Stat. §§ 11.46.300, 11.46.310, 11.81.900(b)(3) (1989) (effective 1978); Ariz. Rev. Stat. Ann. §§ 13–1501(7)–(8), 13–1507, 13–1508 (1978); Ark. Code Ann. §§ 41–2001(1), 41–2002 (1977); Cal. Penal Code Ann. §§ 459, 460 (West 1970); Colo. Rev. Stat. §§ 18–4–101(1)–(2), 18–4–202, 18–4–203 (1978); Conn. Gen. Stat. Ann. §§ 53a–100(a), 53a–101, 53a–103 (1985 Cum. Supp.); Del. Code Ann., Tit. 11, §§ 222(1), 824, 825 (1979); Fla. Stat. Ann. §§ 810.011(2), 810.02 (1976); Ga. Code Ann. § 16–7–1(a) (1984); Idaho Code Ann. § 18–1401 (1979); Ill. Comp. Stat., ch. 38, § 19–1 (West 1985); Iowa Code §§ 702.12, 713.1 (1985); Kan. Stat. Ann. §§ 21–3715, 21–3716 (1988) (effective 1970); La. Rev. Stat. Ann. § 14:62 (West 1974 Cum. Supp.); Me. Rev. Stat. Ann., Tit. 17–A, §§ 2(10), 2(24), 401 (1983); Mass. Gen. Laws Ann., ch. 266, § 16A (West 1970); Mont. Code Ann. §§ 45–2–101(40), 45–6–204 (1983); Nev. Rev. Stat. Ann. § 205.060 (1986); N. H. Rev. Stat. Ann. § 635:1 (1974); N. J. Stat. Ann. §§ 2C:18–1, 2C:18–2 (West 1982); N. M. Stat. Ann. §§ 30–16–3, 30–16–4 (2018) (effective 1978); Ohio Rev. Code Ann. §§ 2909.01, 2911.11, 2911.12 (Lexis 1982); Okla. Stat., Tit. 21, § 1435 (1983); Ore. Rev. Stat. §§ 164.205, 164.215, 164.225 (1985); Pa. Stat. Ann., Tit. 18, §§ 3501, 3502 (Purdon 1973); S. D. Codified Laws §§ 22–1–2(49), 22–32–1, 22–32–3, 22–32–8 (1988) (effective 1976); Tenn. Code Ann. § 39–3–406 (1982); Tex. Penal Code Ann. §§ 30.01, 30.02 (West 1989) (effective 1974); Utah Code Ann. §§ 76–6–201(1), 76–6–202 (1978); W. Va. Code Ann. § 61–3–11 (Lexis 1984); Wis. Stat. § 943.10(1) (1982).

Syllabus

CITY OF ESCONDIDO, CALIFORNIA, ET AL. *v.* EMMONS

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

No. 17–1660. Decided January 7, 2019

Outside the apartment of a reported domestic violence incident, Officer Robert Craig forcibly apprehended Marty Emmons and arrested him for resisting and delaying a police officer. Emmons later sued Officer Craig and Sergeant Kevin Toth (another officer at the scene) for damages under Rev. Stat. § 1979, 42 U. S. C. § 1983, alleging the officers used excessive force in violation of the Fourth Amendment. The District Court held that the officers had probable cause to arrest Emmons, and the Ninth Circuit upheld that finding. The District Court also granted summary judgment to both officers on Emmons' excessive force claim. The District Court concluded there was no evidence that Sergeant Toth used any force against Emmons at all. And the District Court found Officer Craig entitled to qualified immunity because the law did not clearly establish that he could not take down an arrestee as he did given the circumstances. The Ninth Circuit reversed and remanded for trial on the excessive force claims against both officers, stating that: "The right to be free of excessive force was clearly established at the time of the events in question. *Gravelet-Blondin* v. *Shelton*, 728 F. 3d 1086, 1093 (9th Cir. 2013)." 716 Fed. Appx. 724, 726.

Held: The Ninth Circuit failed to conduct the analysis required by this Court's precedents in determining whether the police officers were entitled to qualified immunity. The Ninth Circuit's unexplained reinstatement of the excessive force claim against Sergeant Toth was erroneous and puzzling given the District Court's conclusion that "only Defendant Craig was involved in the excessive force claim" and that Emmons "fail[ed] to identify contrary evidence." 168 F. Supp. 3d 1265, 1274, n. 4. As to Officer Craig, the Ninth Circuit also erred. "Qualified immunity attaches when an official's conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Kisela* v. *Hughes*, 584 U. S. 100, 104 (*per curiam*) (internal quotation marks omitted). Under the Court's cases, the clearly established right must be defined with specificity, particularly in excessive force cases in which police officers are entitled to qualified immunity absent existing precedent that "squarely governs" the specific facts pre-

sented. *Ibid.* In this case, the Court of Appeals should have asked whether clearly established law prohibited the officers from stopping and taking down a man in these circumstances. Under the Court's precedents, the Court of Appeals' formulation of the clearly established right as the "right to be free of excessive force" was far too general. The Court of Appeals cited *Gravelet-Blondin*, which described only a right to be "free from the application of non-trivial force for engaging in mere passive resistance. . . ." 728 F. 3d, at 1093. Assuming without deciding that a court of appeals decision may constitute clearly established law for purposes of qualified immunity, see *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, the Ninth Circuit made no effort to explain how *Gravelet-Blondin* prohibited Officer Craig's actions in this case, as this Court's precedents require. See *District of Columbia* v. *Wesby*, 583 U. S. 48, 64.

Certiorari granted; 716 Fed. Appx. 724, 726, reversed in part, vacated in part, and remanded.

PER CURIAM.

The question in this qualified immunity case is whether two police officers violated clearly established law when they forcibly apprehended a man at the scene of a reported domestic violence incident.

The record, viewed in the light most favorable to the plaintiff, shows the following. In April 2013, Escondido police received a 911 call from Maggie Emmons about a domestic violence incident at her apartment. Emmons lived at the apartment with her husband, her two children, and a roommate, Ametria Douglas. Officer Jake Houchin responded to the scene and eventually helped take a domestic violence report from Emmons about injuries caused by her husband. The officers arrested her husband. He was later released.

A few weeks later, on May 27, 2013, at about 2:30 p.m., Escondido police received a 911 call about another possible domestic disturbance at Emmons' apartment. That 911 call came from Ametria Douglas' mother, Trina Douglas. Trina Douglas was not at the apartment, but she was on the phone with her daughter Ametria, who was at the apartment. Trina heard her daughter Ametria and Maggie Emmons yell-

ing at each other and heard her daughter screaming for help. The call then disconnected, and Trina Douglas called 911.

Officer Houchin again responded, along with Officer Robert Craig. The dispatcher informed the officers that two children could be in the residence and that calls to the apartment had gone unanswered.

Police body-camera video of the officers' actions at the apartment is in the record.

The officers knocked on the door of the apartment. No one answered. But a side window was open, and the officers spoke with Emmons through that window, attempting to convince her to open the door to the apartment so that they could conduct a welfare check. A man in the apartment also told Emmons to back away from the window, but the officers said they could not identify the man. At some point during this exchange, Sergeant Kevin Toth, Officer Joseph Leffingwell, and Officer Huy Quach arrived as backup.

A few minutes later, a man opened the apartment door and came outside. At that point, Officer Craig was standing alone just outside the door. Officer Craig told the man not to close the door, but the man closed the door and tried to brush past Officer Craig. Officer Craig stopped the man, took him quickly to the ground, and handcuffed him. Officer Craig did not hit the man or display any weapon. The video shows that the man was not in any visible or audible pain as a result of the takedown or while on the ground. Within a few minutes, officers helped the man up and arrested him for a misdemeanor offense of resisting and delaying a police officer.

The man turned out to be Maggie Emmons' father, Marty Emmons. Marty Emmons later sued Officer Craig and Sergeant Toth, among others, under Rev. Stat. § 1979, 42 U. S. C. § 1983. He raised several claims, including, as relevant here, a claim of excessive force in violation of the Fourth Amendment. The suit sought money damages for which Officer Craig and Sergeant Toth would be personally liable. The

District Court held that the officers had probable cause to arrest Marty Emmons for the misdemeanor offense. The Ninth Circuit did not disturb that finding, and there is no claim presently before us that the officers lacked probable cause to arrest Marty Emmons. The only claim before us is that the officers used excessive force in effectuating the arrest.

The District Court rejected the claim of excessive force. 168 F. Supp. 3d 1265, 1274 (SD Cal. 2016). The District Court stated that the "video shows that the officers acted professionally and respectfully in their encounter" at the apartment. *Id.*, at 1275. Because only Officer Craig used any force at all, the District Court granted summary judgment to Sergeant Toth on the excessive force claim.

Applying this Court's precedents on qualified immunity, the District Court also granted summary judgment to Officer Craig. According to the District Court, the law did not clearly establish that Officer Craig could not take down an arrestee in these circumstances. The court explained that the officers were responding to a domestic dispute, and that the encounter had escalated when the officers could not enter the apartment to conduct a welfare check. The District Court also noted that when Marty Emmons exited the apartment, none of the officers knew whether he was armed or dangerous, or whether he had injured any individuals inside the apartment.

The Court of Appeals reversed and remanded for trial on the excessive force claims against both Officer Craig and Sergeant Toth. 716 Fed. Appx. 724 (CA9 2018). The Ninth Circuit's entire relevant analysis of the qualified immunity question consisted of the following: "The right to be free of excessive force was clearly established at the time of the events in question. *Gravelet-Blondin* v. *Shelton*, 728 F. 3d 1086, 1093 (9th Cir. 2013)." *Id.*, at 726.

We reverse the judgment of the Court of Appeals as to Sergeant Toth, and vacate and remand as to Officer Craig.

With respect to Sergeant Toth, the Ninth Circuit offered no explanation for its decision. The court's unexplained reinstatement of the excessive force claim against Sergeant Toth was erroneous—and quite puzzling in light of the District Court's conclusion that "only Defendant Craig was involved in the excessive force claim" and that Emmons "fail[ed] to identify contrary evidence." 168 F. Supp. 3d, at 1274, n. 4.

As to Officer Craig, the Ninth Circuit also erred. As we have explained many times: "Qualified immunity attaches when an official's conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Kisela* v. *Hughes*, 584 U. S. 100, 104 (2018) (*per curiam*) (internal quotation marks omitted); see *District of Columbia* v. *Wesby*, 583 U. S. 48, 62–63 (2018); *White* v. *Pauly*, 580 U. S. 73, 78–79 (2017) (*per curiam*); *Mullenix* v. *Luna*, 577 U. S. 7, 21 (2015) (*per curiam*).

Under our cases, the clearly established right must be defined with specificity. "This Court has repeatedly told courts . . . not to define clearly established law at a high level of generality." *Kisela*, 584 U. S., at 104 (internal quotation marks omitted). That is particularly important in excessive force cases, as we have explained:

> "Specificity is especially important in the Fourth Amendment context, where the Court has recognized that it is sometimes difficult for an officer to determine how the relevant legal doctrine, here excessive force, will apply to the factual situation the officer confronts. Use of excessive force is an area of the law in which the result depends very much on the facts of each case, and thus police officers are entitled to qualified immunity unless existing precedent squarely governs the specific facts at issue. . . .
>
> "[I]t does not suffice for a court simply to state that an officer may not use unreasonable and excessive force,

> deny qualified immunity, and then remit the case for a trial on the question of reasonableness. An officer cannot be said to have violated a clearly established right unless the right's contours were sufficiently definite that any reasonable official in the defendant's shoes would have understood that he was violating it." *Id.*, at 104–105 (quotation altered).

In this case, the Court of Appeals contravened those settled principles. The Court of Appeals should have asked whether clearly established law prohibited the officers from stopping and taking down a man in these circumstances. Instead, the Court of Appeals defined the clearly established right at a high level of generality by saying only that the "right to be free of excessive force" was clearly established. With the right defined at that high level of generality, the Court of Appeals then denied qualified immunity to the officers and remanded the case for trial. 716 Fed. Appx., at 726.

Under our precedents, the Court of Appeals' formulation of the clearly established right was far too general. To be sure, the Court of Appeals cited the *Gravelet-Blondin* case from that Circuit, which described a right to be "free from the application of non-trivial force for engaging in mere passive resistance . . . ." 728 F. 3d, at 1093. Assuming without deciding that a court of appeals decision may constitute clearly established law for purposes of qualified immunity, see *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, 614 (2015), the Ninth Circuit's *Gravelet-Blondin* case law involved police force against individuals engaged in *passive* resistance. The Court of Appeals made no effort to explain how that case law prohibited Officer Craig's actions in this case. That is a problem under our precedents:

> "[W]e have stressed the need to identify a case where an officer acting under similar circumstances . . . was held to have violated the Fourth Amendment. . . . While

> there does not have to be a case directly on point, existing precedent must place the lawfulness of the particular [action] beyond debate. . . . Of course, there can be the rare obvious case, where the unlawfulness of the officer's conduct is sufficiently clear even though existing precedent does not address similar circumstances. . . . But a body of relevant case law is usually necessary to clearly establish the answer . . . ." *Wesby*, 583 U. S., at 64 (internal quotation marks omitted).

The Court of Appeals failed to properly analyze whether clearly established law barred Officer Craig from stopping and taking down Marty Emmons in this manner as Emmons exited the apartment. Therefore, we remand the case for the Court of Appeals to conduct the analysis required by our precedents with respect to whether Officer Craig is entitled to qualified immunity.

The petition for certiorari is granted, the judgment of the Court of Appeals is reversed in part and vacated in part, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

SHOOP, WARDEN *v.* HILL

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

No. 18–56. Decided January 7, 2019

Respondent Danny Hill was sentenced to death in Ohio following his 1986 convictions for torture, rape, and murder. The Ohio courts upheld Hill's conviction and sentence on direct appeal. Hill then sought post-conviction relief in state and federal court, which was denied. Subsequently, this Court decided *Atkins* v. *Virginia*, 536 U. S. 304, which held that the Eighth Amendment prohibits the imposition of a death sentence on a defendant who is "mentally retarded." Hill filed a new state petition contending that his death sentence is illegal under *Atkins*. In 2006, the Ohio trial court denied this claim, and in 2008, the Ohio Court of Appeals affirmed. After the Ohio Supreme Court denied further review in 2009, Hill filed a federal habeas petition seeking review of the denial of his *Atkins* claim under 28 U. S. C. § 2254. The District Court denied the petition. The Sixth Circuit reversed and granted habeas relief under § 2254(d)(1) on the grounds that the Ohio courts' conclusion that Hill is not intellectually disabled was contrary to Supreme Court precedent that was clearly established at the time in question. In reaching this decision, the Sixth Circuit repeatedly cited the Court's 2017 decision in *Moore* v. *Texas*, 581 U. S. 1. The Sixth Circuit acknowledged that Supreme Court decisions that post-date a state court's determination cannot ordinarily qualify as clearly established law for purposes of federal habeas review, but reasoned that in pertinent respects *Moore* merely applied what was clearly established by *Atkins* regarding the assessment of adaptive skills.

Held: Because the Sixth Circuit's reliance on *Moore* was plainly improper under § 2254(d)(1), the Sixth Circuit's grant of habeas relief is vacated and this case remanded for evaluation of Hill's claim regarding intellectual disability under law clearly established at the relevant time. Under § 2254(d)(1), federal habeas relief may be granted only if the state court's adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of," Supreme Court precedent that was "clearly established" at the time of the adjudication. *White* v. *Woodall*, 572 U. S. 415, 419–420. The issue is what was clearly established regarding the execution of the intellectually disabled in 2008, when the Ohio Court of Appeals rejected Hill's *Atkins* claim. *Atkins* gave no comprehensive definition of "mental retardation" for Eighth Amend-

ment purposes. The Sixth Circuit did not explain how the rule it applied can be teased out of the *Atkins* Court's brief comments about the meaning of what it termed "mental retardation." While *Atkins* noted that standard definitions of mental retardation included as "significant limitations in adaptive skills . . . that became manifest before age 18," 536 U. S., at 318, *Atkins* did not definitively resolve how that element was to be evaluated but instead left its application in the first instance to the States. *Id.*, at 317. Because the reasoning of the Sixth Circuit leans so heavily on *Moore*, its decision must be vacated. On remand, the court should determine whether its conclusions can be sustained based strictly on legal rules that were clearly established in the decisions of this Court at the relevant time.

Certiorari granted; 881 F. 3d 483, vacated and remanded.

PER CURIAM.

The United States Court of Appeals for the Sixth Circuit held that respondent Danny Hill, who has been sentenced to death in Ohio, is entitled to habeas relief under 28 U. S. C. § 2254(d)(1) because the decisions of the Ohio courts concluding that he is not intellectually disabled were contrary to Supreme Court precedent that was clearly established at the time in question. In reaching this decision, the Court of Appeals relied repeatedly and extensively on our decision in *Moore* v. *Texas*, 581 U. S. 1 (2017), which was not handed down until long after the state-court decisions.

The Court of Appeals' reliance on *Moore* was plainly improper under § 2254(d)(1), and we therefore vacate that decision and remand so that Hill's claim regarding intellectual disability can be evaluated based solely on holdings of this Court that were clearly established at the relevant time.

I

In September 1985, 12-year-old Raymond Fife set out on his bicycle for a friend's home. When he did not arrive, his parents launched a search, and that evening his father found Raymond—naked, beaten, and burned—in a wooded field. Although alive, he had sustained horrific injuries that we will not describe. He died two days later.

In 1986, respondent Danny Hill was convicted for torturing, raping, and murdering Raymond, and he was sentenced to death. An intermediate appellate court affirmed his conviction and sentence, as did the Ohio Supreme Court. We denied certiorari. *Hill* v. *Ohio*, 507 U. S. 1007 (1993).

After unsuccessful efforts to obtain postconviction relief in state and federal court, Hill filed a new petition in the Ohio courts contending that his death sentence is illegal under *Atkins* v. *Virginia*, 536 U. S. 304 (2002), which held that the Eighth Amendment prohibits the imposition of a death sentence on a defendant who is "mentally retarded." In 2006, the Ohio trial court denied this claim, App. to Pet. for Cert. 381a–493a, and in 2008, the Ohio Court of Appeals affirmed, *State* v. *Hill*, 177 Ohio App. 3d 171, 2008-Ohio-3509, 894 N. E. 2d 108. In 2009, the Ohio Supreme Court denied review. *State* v. *Hill*, 122 Ohio St. 3d 1502, 2009-Ohio-4233, 912 N. E. 2d 107.

In 2010, Hill filed a new federal habeas petition under 28 U. S. C. § 2254, seeking review of the denial of his *Atkins* claim. The District Court denied the petition, App. to Pet. for Cert. 77a–210a, but the Sixth Circuit reversed and granted habeas relief under § 2254(d)(1), which applies when a state-court adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States," see *Hill* v. *Anderson*, 881 F. 3d 483 (2018). The Sixth Circuit found two alleged deficiencies in the Ohio courts' decisions: First, they "overemphasized Hill's adaptive strengths"; and second, they "relied too heavily on adaptive strengths that Hill exhibited in the controlled environment of his death-row prison cell." *Id.*, at 492. In reaching these conclusions, the court relied repeatedly on our decision in *Moore* v. *Texas*, 581 U. S. 1. See 881 F. 3d, at 486, 487, 488, n. 4, 489, 491, 492, 493, 495, 496, 498, 500. The court acknowledged that "[o]rdinarily, Supreme Court decisions that post-date a state court's deter-

mination cannot be 'clearly established law' for the purposes of [the federal habeas statute]," but the court argued "that *Moore*'s holding regarding adaptive strengths [was] merely an application of what was clearly established by *Atkins*." *Id.*, at 487.

The State filed a petition for a writ of certiorari, contending that the Sixth Circuit violated §2254(d)(1) because a fundamental underpinning of its decision was *Moore*, a case decided by this Court well after the Ohio courts' decisions. Against this, Hill echoes the Court of Appeals' argument that *Moore* merely spelled out what was clearly established by *Atkins* regarding the assessment of adaptive skills.

II

The federal habeas statute, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), imposes important limitations on the power of federal courts to overturn the judgments of state courts in criminal cases. The statute respects the authority and ability of state courts and their dedication to the protection of constitutional rights. Thus, under the statutory provision at issue here, 28 U. S. C. §2254(d)(1), habeas relief may be granted only if the state court's adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of," Supreme Court precedent that was "clearly established" at the time of the adjudication. *E. g., White* v. *Woodall*, 572 U. S. 415, 419–420 (2014); *Metrish* v. *Lancaster*, 569 U. S. 351, 357–358 (2013). This means that a state court's ruling must be "so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Harrington* v. *Richter*, 562 U. S. 86, 103 (2011). We therefore consider what was clearly established regarding the execution of the intellectually disabled in 2008, when the Ohio Court of Appeals rejected Hill's *Atkins* claim.

Of course, *Atkins* itself was on the books, but *Atkins* gave no comprehensive definition of "mental retardation" for Eighth Amendment purposes.[1] The opinion of the Court noted that the definitions of mental retardation adopted by the American Association on Mental Retardation and the American Psychiatric Association required both "subaverage intellectual functioning" and "significant limitations in adaptive skills such as communication, self-care, and self-direction that became manifest before age 18." 536 U. S., at 318; see also *id.*, at 308, n. 3 (quoting definitions). The Court also noted that state statutory definitions of mental retardation at the time "[were] not identical, but generally conform[ed] to the[se] clinical definitions." *Id.*, at 317, n. 22. The Court then left "'to the State[s] the task of developing appropriate ways to enforce the constitutional restriction'" that the Court adopted. *Id.*, at 317 (quoting *Ford* v. *Wainwright*, 477 U. S. 399, 416 (1986) (plurality opinion)).

More than a decade later, we expounded on the definition of intellectual disability in two cases. In *Hall* v. *Florida*, 572 U. S. 701 (2014), we considered a rule restricting *Atkins* to defendants with "an IQ test score of 70 or less." 572 U. S., at 704. We held that this rule violated the Eighth Amendment because it treated an IQ score higher than 70 as conclusively disqualifying and thus prevented consideration of other evidence of intellectual disability, such as evidence of "deficits in adaptive functioning over [the defendant's] lifetime." *Id.*, at 724.

Three years later in *Moore*, we applied *Hall* and faulted the Texas Court of Criminal Appeals (CCA) for concluding that the petitioner's IQ scores, some of which were at or below 70, established that he was not intellectually disabled. *Moore*, 581 U. S., at 13–15. We also held that the CCA

---

[1] The Court explained that it was "fair to say that a national consensus" had developed against the execution of "mentally retarded" offenders. *Atkins* v. *Virginia*, 536 U. S. 304, 316 (2002).

improperly evaluated the petitioner's adaptive functioning. It erred, we concluded, in "overemphasiz[ing petitioner's] perceived adaptive strengths," despite the medical community's focus on "adaptive *deficits*." *Id.*, at 15. And we found that the CCA also went astray in "stress[ing petitioner's] improved behavior in prison," even though the medical community "caution[ed] against reliance on adaptive strengths developed in a controlled setting, as a prison surely is." *Id.*, at 16 (internal quotation marks omitted).

III

In this case, no reader of the decision of the Court of Appeals can escape the conclusion that it is heavily based on *Moore*, which came years after the decisions of the Ohio courts. Indeed, the Court of Appeals, in finding an unreasonable application of clearly established law, drew almost word for word from the two statements in *Moore* quoted above. See 881 F. 3d, at 492 ("Contrary to *Atkins*, the Ohio courts overemphasized Hill's adaptive strengths and relied too heavily on adaptive strengths that Hill exhibited in the controlled environment of his death-row prison cell. In so doing, they unreasonably applied clearly established law"). Although the Court of Appeals asserted that the holding in *Moore* was "merely an application of what was clearly established by *Atkins*," 881 F. 3d, at 487, the court did not explain how the rule it applied can be teased out of the *Atkins* Court's brief comments about the meaning of what it termed "mental retardation." While *Atkins* noted that standard definitions of mental retardation included as a necessary element "significant limitations in adaptive skills . . . that became manifest before age 18," 536 U. S., at 318, *Atkins* did not definitively resolve how that element was to be evaluated but instead left its application in the first instance to the States. *Id.*, at 317.

Moreover, the posture in which *Moore* reached this Court (it did not arise under AEDPA) and the *Moore* majority's

primary reliance on medical literature that postdated the Ohio courts' decisions, 581 U. S., at 13–14, 20, provide additional reasons to question the Court of Appeals' analysis. Cf. *Cain* v. *Chappell*, 870 F. 3d 1003, 1024, n. 9 (CA9 2017) (because "*Moore* is not an AEDPA case" and was "decided just this spring," "*Moore* itself cannot serve as 'clearly established' law at the time the state court decided Cain's claim").

IV

The centrality of *Moore* in the Court of Appeals' analysis is reflected in the way in which the intellectual-disability issue was litigated below. The *Atkins* portion of Hill's habeas petition did not focus on § 2254(d)(1), the provision on which the decision below is based.[2] Instead, it began and ended with appeals to a different provision of the habeas statute, § 2254(d)(2), which supports relief based on a state court's "unreasonable determination of the facts." In particular, Hill opened with the claim that the Ohio courts' findings on "adaptive functioning" "were an unreasonable determination of the facts in light of the evidence," Amended Pet. for Habeas Corpus in No. 96–CV–795 (ND Ohio), Doc. 94, p. 15, ¶44 (citing § 2254(d)(2)), and he closed with the claim that the state trial court's assessment that he is "not mentally retarded" was based on "an unreasonable determination of the facts," *id.*, at 36–37, ¶101 (citing § 2254(d)(2)). Indeed, Hill's reply to the State's answer to his petition explicitly "concur[red] . . . that it is proper to review [his *Atkins* claim] under § 2254(d)(2)." Traverse in No. 96–CV–795 (ND Ohio),

[2] While Hill's petition argued at one point that certain unidentified "procedures" used by the state courts in making the relevant decisions "violated clearly established federal law of *Ford/Panetti/Atkins*," Amended Pet. for Habeas Corpus in No. 96–CV–795 (ND Ohio), Doc. 94, p. 15, ¶45, the petition plainly did not encompass his current argument that the Ohio Court of Appeals unreasonably applied clearly established law under *Atkins* by overemphasizing adaptive strengths and improperly considering his prison behavior.

Doc. 102, p. 47. And so, unsurprisingly, the District Court analyzed Hill's *Atkins* claim solely under § 2254(d)(2), noting that "[a]s Hill concedes in his Traverse, his *Atkins* claim is more appropriately addressed as it relates to the Ohio appellate court's factual analysis under § 2254(d)(2)." App. to Pet. for Cert. 121a.

Hill pressed the same § 2254(d)(2) argument in his opening brief in the Sixth Circuit. There, he argued that the state courts' finding on "adaptive functioning . . . was an unreasonable determination of the facts." Brief for Petitioner–Appellant in No. 14–3718 (CA6), p. 34 (citing § 2254(d)(2)); see also *id.*, at 65 ("As such, the state courts' findings of fact that [Hill] is not mentally retarded constitute an unreasonable determination of facts in light of the evidence presented. (§ 2254(d)(2))").

It appears that it was not until the Court of Appeals asked for supplemental briefing on *Moore* that Hill introduced the § 2254(d)(1) argument that the Court of Appeals adopted. Although, as noted, the Court of Appeals ultimately disclaimed reliance on *Moore*, it explicitly asked the parties for supplemental briefing on how *Moore* "should be applied to this case." Because the reasoning of the Court of Appeals leans so heavily on *Moore*, its decision must be vacated. On remand, the court should determine whether its conclusions can be sustained based strictly on legal rules that were clearly established in the decisions of this Court at the relevant time.

* * *

The petition for certiorari and Hill's motion for leave to proceed *in forma pauperis* are granted, the judgment of the United States Court of Appeals for the Sixth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

CULBERTSON *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 17–773. Argued November 7, 2018—Decided January 8, 2019

The Social Security Act regulates the fees that attorneys may charge claimants seeking Title II benefits for representation both before the Social Security Administration and in federal court. For representation in administrative proceedings, the Act provides two ways to determine fees. If a fee agreement exists, fees are capped at the lesser of 25% of past-due benefits or a set dollar amount—currently $6,000. 42 U. S. C. § 406(a)(2)(A). Absent an agreement, the agency may set any "reasonable" fee. § 406(a)(1). In either case, the agency is required to withhold up to 25% of past-due benefits for direct payment of any fee. § 406(a)(4). For representation in court proceedings, fees are capped at 25% of past-due benefits, and the agency has authority to withhold such benefits to pay these fees. § 406(b)(1)(A).

Petitioner Culbertson represented Katrina Wood in Social Security disability benefit proceedings before the agency and in District Court. The agency ultimately awarded Wood past-due benefits, withheld 25% of those benefits to pay any attorney's fees, and awarded Culbertson fees under § 406(a) for representation before the agency. Culbertson then moved for a separate fee award under § 406(b) for the court proceedings, requesting a full 25% of past-due benefits. The District Court granted the request, but only in part, because Culbertson did not subtract the amount he had already received under § 406(a) for his agency-level representation. The Eleventh Circuit affirmed, holding that the 25% limit under § 406(b) applies to the total fees awarded under both §§ 406(a) and (b).

Held: Section 406(b)(1)(A)'s 25% cap applies only to fees for court representation and not to the aggregate fees awarded under §§ 406(a) and (b). Pp. 58–62.

(a) Section 406(b) provides that a court rendering a favorable judgment to a claimant "represented before the court by an attorney" may award "a reasonable fee for such representation, not in excess of 25 percent" of past-due benefits. Here, the adjective "such," which means "[o]f the kind or degree already described or implied," refers to the only form of representation "already described" in § 406(b)—*i. e.*, "represent-

Syllabus

[ation] before the court." Thus, the 25% cap applies only to fees for representation before the court, not the agency.

Subsections (a) and (b) address different stages of the representation and use different methods for calculating fees. Given this statutory structure, applying § 406(b)'s 25% cap on court-stage fees to § 406(a) agency-stage fees, or the aggregate of §§ 406(a) and (b) fees, would make little sense. For example, such a reading would subject § 406(a)(1)'s reasonableness limitation to § 406(b)'s 25% cap—a limitation not included in the relevant provision of the statute. Had Congress wanted agency-stage fees to be capped at 25%, it presumably would have said so directly in subsection (a). Pp. 58–60.

(b) The fact that the agency presently withholds a single pool of 25% of past-due benefits for direct payment of agency and court fees does not support an aggregate reading. The statutory text provides for two pools of money for direct payment of fees. See §§ 406(a)(4), (b)(1)(A). The agency's choice to withhold only one pool of 25% of past-due benefits does not alter this text. More fundamentally, the amount of past-due benefits that the agency can withhold for direct payment does not delimit the amount of fees that can be approved for representation before the agency or the court. Pp. 60–62.

861 F. 3d 1197, reversed and remanded.

THOMAS, J., delivered the opinion for a unanimous Court.

Daniel R. Ortiz argued the cause for petitioner. With him on the briefs were *Richard A. Culbertson*, *pro se*, *Sarah Fay*, *Mark T. Stancil*, *Matthew M. Madden*, *John P. Elwood*, *Jeremy C. Marwell*, *Joshua S. Johnson*, and *Matthew X. Etchemendy.*

Anthony A. Yang argued the cause for respondent. With him on the briefs were *Solicitor General Francisco*, *Acting Assistant Attorney General Readler*, *Deputy Solicitor General Kneedler*, and *Charles W. Scarborough.*

Amy Levin Weil, by invitation of the Court, 584 U. S. 999, argued the cause and filed a brief as *amicus curiae* in support of the judgment below.*

**Eric Schnaufer* and *Charles L. Martin* filed a brief for the National Organization of Social Security Claimants' Representatives as *amicus curiae.*

JUSTICE THOMAS delivered the opinion of the Court.

Federal law regulates the fees that attorneys may charge Social Security claimants for representation before the Social Security Administration and a reviewing court. See 42 U. S. C. §§ 406(a)–(b). The question in this case is whether the statutory scheme limits the aggregate amount of fees for both stages of representation to 25% of the claimant's past-due benefits. Because § 406(b) by its terms imposes a 25% cap on fees only for representation before a court, and § 406(a) has separate caps on fees for representation before the agency, we hold that the statute does not impose a 25% cap on aggregate fees.

I

A

Title II of the Social Security Act, 49 Stat. 622, as amended, 42 U. S. C. § 401 *et seq.*, "is an insurance program" that "provides old-age, survivor, and disability benefits to insured individuals irrespective of financial need." *Bowen* v. *Galbreath*, 485 U. S. 74, 75 (1988). A claimant's application for Title II benefits can result in payments of past-due benefits—*i. e.*, benefits that accrued before a favorable decision, 20 CFR § 404.1703 (2018)—as well as ongoing monthly benefits, see 42 U. S. C. § 423(a). A claimant who has been denied benefits "in whole or in part" by the Social Security Administration may seek administrative review of the initial agency determination, § 405(b), and may then seek judicial review of the resulting final agency decision, § 405(g).

As presently written, the Social Security Act "discretely" addresses attorney's fees for the administrative and judicial-review stages: "§ 406(a) governs fees for representation in administrative proceedings; § 406(b) controls fees for representation in court." *Gisbrecht* v. *Barnhart*, 535 U. S. 789, 794 (2002). The original Social Security Act made no such provision for attorney's fees in either proceeding. *Id.*, at

793, n. 2. But in 1939, "Congress amended the Act to permit the Social Security Board to prescribe maximum fees attorneys could charge for representation of claimants before the agency." *Ibid.* In 1965, Congress added a new subsection (b) to § 406 that explicitly prescribed fees for representation before a court and "allow[ed] withholding of past-due benefits to pay" these fees directly to the attorney. Social Security Amendments of 1965, § 332, 79 Stat. 403; *Bowen*, 485 U. S., at 76. In 1968, Congress amended subsection (a) to give the agency similar withholding authority to pay attorney's fees incurred in administrative proceedings. *Id.*, at 76.

Section 406(a) is titled "Recognition of representatives; fees for representation before Commissioner" of Social Security. It includes two ways to determine fees for representation before the agency, depending on whether a prior fee agreement exists. If the claimant has a fee agreement, subsection (a)(2) caps fees at the lesser of 25% of past-due benefits or a set dollar amount—currently $6,000. § 406(a)(2)(A); Maximum Dollar Limit in the Fee Agreement Process, 74 Fed. Reg. 6080 (2009). Absent a fee agreement, subsection (a)(1) gives the agency authority to "prescribe the maximum fees which may be charged for services performed in connection with any claim" before the agency. If the claimant obtains a favorable agency determination, the agency may allot "a reasonable fee to compensate such attorney for the services performed by him."

Subsection (a)(4) requires the agency to withhold up to 25% of past-due benefits for direct payment of any fee for representation before the agency:

> "[I]f the claimant is determined to be entitled to past-due benefits under this subchapter and the person representing the claimant is an attorney, the Commissioner of Social Security shall . . . certify for payment out of such past-due benefits . . . to such attorney an amount equal to so much of the maximum fee as does not exceed 25 percent of such past-due benefits . . . ."

Section 406(b) is titled "Fees for representation before court." Subsection (b)(1)(A) both limits these fees to no more than 25% of past-due benefits and allows the agency to withhold past-due benefits to pay these fees:

> "Whenever a court renders a judgment favorable to a claimant under this subchapter who was represented before the court by an attorney, the court may determine and allow as part of its judgment a reasonable fee for such representation, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment, and the Commissioner of Social Security may . . . certify the amount of such fee for payment to such attorney out of, and not in addition to, the amount of such past-due benefits."

At issue is whether § 406(b)'s 25% cap limits the aggregate fees awarded for representation before both the agency under § 406(a) and the court under § 406(b), or instead limits only the fee awarded for court representation under § 406(b).

B

Petitioner Richard Culbertson represented claimant Katrina Wood in proceedings seeking Social Security disability benefits. After the agency denied Wood benefits, she brought an action in district court. For the court action, Wood signed a contingency-fee agreement "to pay a fee of 25 percent of the total of the past-due benefits to which [she] is entitled" in consideration for Culbertson's "representation of [her] in Federal Court." App. 8–9. The agreement excludes fees for "any representation before" the agency. *Id.*, at 9.

The District Court reversed the agency's denial of benefits and remanded for further proceedings. The court granted Wood attorney's fees under the Equal Access to Justice Act (EAJA), which authorizes an award against the Government for reasonable fees in "civil action[s]." 28 U. S. C. §§ 2412(d)(1)(A) and (2)(A).

On remand, the agency awarded Wood past-due disability benefits and withheld 25% of those benefits to pay any attorney's fees that might ultimately be awarded. The agency also awarded Culbertson § 406(a) fees for representing Wood before the agency.

Culbertson then moved the District Court for a separate fee award under § 406(b) for representing Wood there. After accounting for the EAJA award, see *Gisbrecht*, *supra*, at 796; App. 9, this request amounted to a full 25% of past-due benefits. The court granted Culbertson's request only in part because he did not subtract the amount he had already received under § 406(a) for his agency-level representation. The Eleventh Circuit affirmed, relying on Circuit precedent to hold that "the 25% limit from § 406(b) applies to total fees awarded under both § 406(a) and (b), 'preclud-[ing] the aggregate allowance of attorney's fees greater than twenty-five percent of the past due benefits received by the claimant.'" *Wood* v. *Commissioner of Social Security*, 861 F. 3d 1197, 1205 (2017) (quoting *Dawson* v. *Finch*, 425 F. 2d 1192, 1195 (CA5 1970); emphasis deleted).*

Given a conflict between the Circuits on this question, see 861 F. 3d, at 1205–1206, we granted certiorari. 584 U. S. 992 (2018). Because no party defends the judgment, we appointed Amy Weil to brief and argue this case as *amicus curiae* in support of the judgment below. 584 U. S. 999 (2018). *Amicus* Weil has ably discharged her assigned responsibilities.

II

A

We "begi[n] with the language of the statute itself, and that is also where the inquiry should end, for the statute's language is plain." *Puerto Rico* v. *Franklin Cal. Tax-Free*

*See *Bonner* v. *Prichard*, 661 F. 2d 1206, 1209 (CA11 1981) (en banc) (adopting all decisions of the former Fifth Circuit announced prior to October 1, 1981, as binding precedent in the Eleventh Circuit).

Trust, 579 U. S. 115, 125 (2016) (internal quotation marks omitted). Under § 406(b), when a court "renders a judgment favorable to a claimant . . . who was represented before the court by an attorney," the court may award "a reasonable fee for *such representation*, not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment." 42 U. S. C. § 406(b)(1)(A) (emphasis added). Both at the time of enactment and today, the adjective "such" means "[o]f the kind or degree already described or implied." H. Fowler & F. Fowler, Concise Oxford Dictionary of Current English 1289 (5th ed. 1964); Black's Law Dictionary 1661 (10th ed. 2014) ("[t]hat or those; having just been mentioned"). Here, the only form of representation "already described" in § 406(b) is "represent[ation] before the court by an attorney." Accordingly, the 25% cap applies only to fees for representation before the court, not the agency.

This interpretation is supported by "the structure of the statute and its other provisions." *Maracich* v. *Spears*, 570 U. S. 48, 60 (2013). As an initial matter, subsections (a) and (b) address different stages of the representation. Section 406(a) addresses fees for representation "before the Commissioner," whereas § 406(b) addresses fees for representation in court. Because some claimants will prevail before the agency and have no need to bring a court action, it is unsurprising that the statute contemplates separate fees for each stage of representation.

These subsections also calculate fees differently. Section 406(b) applies a flat 25% cap on fees for court representation. By contrast, § 406(a) provides two ways to determine fees for agency proceedings. Subsection (a)(2) caps fees based on a fee agreement at the lesser of 25% of past-due benefits or $6,000. *Supra*, at 56. If there is no fee agreement, the agency may set any fee, including a fee greater than 25% of past-due benefits, so long as the fee is "reasonable." § 406(a)(1).

Given this statutory structure, applying § 406(b)'s 25% cap on court-stage fees to § 406(a) agency-stage fees, or the aggregate of §§ 406(a) and (b) fees, would make little sense. Many claimants will never litigate in court, yet under the aggregate reading, agency fees would be capped at 25% based on a provision related exclusively to representation in court. Absent a fee agreement, § 406(a)(1) subjects agency fees only to a reasonableness limitation, so applying § 406(b)'s cap to such fees would add a limitation that Congress did not include in the relevant provision of the statute. If Congress had wanted these fees to be capped at 25%, it presumably would have said so directly in subsection (a), instead of providing for a "reasonable fee" in that subsection and adding a 25% cap in § 406(b) without even referencing subsection (a). Thus, the structure of the statute confirms that § 406(b) caps only court representation fees.

B

Amicus Amy Weil agrees that "§ 406(a) and § 406(b) provide separate avenues for an award of attorney's fees for representation of a Social Security claimant," but emphasizes that "these fees are certified for payment out of a single source: the 25% of past-due benefits withheld by the Commissioner." Brief for Court-Appointed *Amicus Curiae* 10. According to *amicus*, "[b]ecause the Commissioner withholds only one pool of 25% of past-due benefits from which to pay attorney's fees for both agency and court representation, for an attorney to collect a fee that exceeds the 25% pool of withheld disability benefits," the attorney may "need to file a lawsuit against his disabled client" to collect the difference. *Id.*, at 23–24. Therefore, *amicus* urges, "[w]hen the statute is read as a whole," "it is evident that Congress placed a cumulative 25% cap on attorney's fees payable for successful representation of a Social Security claimant before both the agency and the court." *Id.*, at 10.

Amicus is quite right that presently the agency withholds a single pool of 25% of past-due benefits for direct payment of agency and court fees. See SSA, Program Operations Manual System (POMS), GN 03920.035(A) (June 22, 2009), https://policy.ssa.gov/poms.nsf/lnx/0203920035 (as last visited Jan. 2, 2019); see also 20 CFR §§ 404.1730(a) and (b)(1)(i). And *amicus* sensibly argues that if there is only a single 25% pool for direct payment of fees, Congress might not have intended aggregate fees higher than 25%. This argument is plausible, but the statutory text in fact provides for two pools of money for direct payment of fees. Any shortage of withheld benefits for direct payment of fees is thus due to agency policy.

Under § 406(a)(4), the agency "shall" certify for direct payment of agency representation fees "an amount equal to so much of the maximum fee as does not exceed 25 percent of" past-due benefits. In other words, this subsection requires that the agency withhold the approved fees for work performed in agency proceedings, up to 25% of the amount of the claimant's past-due benefits. But this is not the only subsection that enables the agency to withhold past-due benefits for direct payment of fees. Section 406(b)(1)(A) provides that the agency "may" certify past-due benefits for direct payment of court representation fees. As the Government explains, the agency has nevertheless "exercised its discretion . . . to withhold a total of 25% of past-due benefits for direct payment of the approved agency *and* court fees." Reply Brief for Respondent 8 (emphasis added). The agency's choice to withhold only one pool of 25% of past-due benefits does not alter the statutory text, which differentiates between agency representation in § 406(a) and court representation in § 406(b), contains separate caps on fees for each type of representation, and authorizes two pools of withheld benefits.

More fundamentally, the amount of past-due benefits that the agency can withhold for direct payment does not delimit

the amount of fees that can be approved for representation before the agency or the court. The attorney might receive a direct payment out of past-due benefits, but that payment could be less than the fees to which the attorney is entitled. Indeed, prior to 1968, the statute allowed fees for agency representation but lacked a provision for direct payment of such fees from past-due benefits. See *supra*, at 56. And under the current §§ 406(a)(1) and (4), the agency can award a "reasonable fee" that exceeds the 25% of past-due benefits it can withhold for direct payment.

In short, despite the force of *amicus*' arguments, the statute does not bear her reading. Any concerns about a shortage of withheld benefits for direct payment and the consequences of such a shortage are best addressed to the agency, Congress, or the attorney's good judgment.

* * *

Because the 25% cap in § 406(b)(1)(A) applies only to fees for court representation, and not to the aggregate fees awarded under §§ 406(a) and (b), the judgment of the United States Court of Appeals for the Eleventh Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

HENRY SCHEIN, INC., ET AL. *v.* ARCHER & WHITE SALES, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 17–1272. Argued October 29, 2018—Decided January 8, 2019

Respondent Archer & White Sales, Inc., sued petitioner Henry Schein, Inc., alleging violations of federal and state antitrust law and seeking both money damages and injunctive relief. The relevant contract between the parties provided for arbitration of any dispute arising under or related to the agreement, except for, among other things, actions seeking injunctive relief. Invoking the Federal Arbitration Act, Schein asked the District Court to refer the matter to arbitration, but Archer & White argued that the dispute was not subject to arbitration because its complaint sought injunctive relief, at least in part. Schein contended that because the rules governing the contract provide that arbitrators have the power to resolve arbitrability questions, an arbitrator—not the court—should decide whether the arbitration agreement applied. Archer & White countered that Schein's argument for arbitration was wholly groundless, so the District Court could resolve the threshold arbitrability question. The District Court agreed with Archer & White and denied Schein's motion to compel arbitration. The Fifth Circuit affirmed.

Held: The "wholly groundless" exception to arbitrability is inconsistent with the Federal Arbitration Act and this Court's precedent. Under the Act, arbitration is a matter of contract, and courts must enforce arbitration contracts according to their terms. *Rent-A-Center, West, Inc.* v. *Jackson*, 561 U. S. 63, 67. The parties to such a contract may agree to have an arbitrator decide not only the merits of a particular dispute but also "'gateway' questions of 'arbitrability.'" *Id.*, at 68–69. Therefore, when the parties' contract delegates the arbitrability question to an arbitrator, a court may not override the contract, even if the court thinks that the arbitrability claim is wholly groundless. That conclusion follows also from this Court's precedent. See *AT&T Technologies, Inc.* v. *Communications Workers*, 475 U. S. 643, 649–650.

Archer & White's counterarguments are unpersuasive. First, its argument that §§ 3 and 4 of the Act should be interpreted to mean that a court must always resolve questions of arbitrability has already been addressed and rejected by this Court. See, *e. g.*, *First Options of Chicago, Inc.* v. *Kaplan*, 514 U. S. 938, 944. Second, its argument that § 10

of the Act—which provides for back-end judicial review of an arbitrator's decision if an arbitrator has "exceeded" his or her "powers"—supports the conclusion that the court at the front end should also be able to say that the underlying issue is not arbitrable is inconsistent with the way Congress designed the Act. And it is not this Court's proper role to redesign the Act. Third, its argument that it would be a waste of the parties' time and money to send wholly groundless arbitrability questions to an arbitrator ignores the fact that the Act contains no "wholly groundless" exception. This Court may not engraft its own exceptions onto the statutory text. Nor is it likely that the exception would save time and money systemically even if it might do so in some individual cases. Fourth, its argument that the exception is necessary to deter frivolous motions to compel arbitration overstates the potential problem. Arbitrators are already capable of efficiently disposing of frivolous cases and deterring frivolous motions, and such motions do not appear to have caused a substantial problem in those Circuits that have not recognized a "wholly groundless" exception.

The Fifth Circuit may address the question whether the contract at issue in fact delegated the arbitrability question to an arbitrator, as well as other properly preserved arguments, on remand. Pp. 67–72.

878 F. 3d 488, vacated and remanded.

KAVANAUGH, J., delivered the opinion for a unanimous Court.

Kannon K. Shanmugam argued the cause for petitioners. With him on the briefs were *Liam J. Montgomery*, *Charles L. McCloud*, *William T. Marks*, *Paul F. Schuster*, *Cynthia Keely Timms*, *Richard C. Godfrey*, and *Barack S. Echols*.

Daniel L. Geyser argued the cause for respondent. With him on the brief was *Lewis T. LeClair*.*

---

*Briefs of *amici curiae* urging reversal were filed for the Atlantic Legal Foundation by *Martin S. Kaufman*; for the Chamber of Commerce of the United States of America by *Andrew J. Pincus*, *Evan M. Tager*, *Archis A. Parasharami*, and *Matthew A. Waring*; for the New England Legal Foundation by *Benjamin G. Robbins* and *Martin J. Newhouse*; and for Anthony Michael Sabino by *Mr. Sabino*, *pro se.*

Briefs of *amici curiae* urging affirmance were filed for the American Association for Justice by *Matthew Wessler*, *Deepak Gupta*, and *Jeffrey R. White*; for Public Citizen, Inc., by *Scott L. Nelson* and *Allison M. Zieve*; and for George A. Bermann by *J. Samuel Tenenbaum.*

JUSTICE KAVANAUGH delivered the opinion of the Court.

Under the Federal Arbitration Act, parties to a contract may agree that an arbitrator rather than a court will resolve disputes arising out of the contract. When a dispute arises, the parties sometimes may disagree not only about the merits of the dispute but also about the threshold arbitrability question—that is, whether their arbitration agreement applies to the particular dispute. Who decides that threshold arbitrability question? Under the Act and this Court's cases, the question of who decides arbitrability is itself a question of contract. The Act allows parties to agree by contract that an arbitrator, rather than a court, will resolve threshold arbitrability questions as well as underlying merits disputes. *Rent-A-Center, West, Inc.* v. *Jackson*, 561 U. S. 63, 68–70 (2010); *First Options of Chicago, Inc.* v. *Kaplan*, 514 U. S. 938, 943–944 (1995).

Even when a contract delegates the arbitrability question to an arbitrator, some federal courts nonetheless will short-circuit the process and decide the arbitrability question themselves if the argument that the arbitration agreement applies to the particular dispute is "wholly groundless." The question presented in this case is whether the "wholly groundless" exception is consistent with the Federal Arbitration Act. We conclude that it is not. The Act does not contain a "wholly groundless" exception, and we are not at liberty to rewrite the statute passed by Congress and signed by the President. When the parties' contract delegates the arbitrability question to an arbitrator, the courts must respect the parties' decision as embodied in the contract. We vacate the contrary judgment of the Court of Appeals.

I

Archer and White is a small business that distributes dental equipment. Archer and White entered into a contract with Pelton and Crane, a dental equipment manufacturer, to distribute Pelton and Crane's equipment. The relationship

eventually soured. As relevant here, Archer and White sued Pelton and Crane's successor-in-interest and Henry Schein, Inc. (collectively, Schein), in Federal District Court in Texas. Archer and White's complaint alleged violations of federal and state antitrust law, and sought both money damages and injunctive relief.

The relevant contract between the parties provided:

> "Disputes. This Agreement shall be governed by the laws of the State of North Carolina. Any dispute arising under or related to this Agreement (except for actions seeking injunctive relief and disputes related to trademarks, trade secrets, or other intellectual property of [Schein]), shall be resolved by binding arbitration in accordance with the arbitration rules of the American Arbitration Association [(AAA)]. The place of arbitration shall be in Charlotte, North Carolina." 878 F. 3d 488, 491 (CA5 2017).

After Archer and White sued, Schein invoked the Federal Arbitration Act and asked the District Court to refer the parties' antitrust dispute to arbitration. Archer and White objected, arguing that the dispute was not subject to arbitration because Archer and White's complaint sought injunctive relief, at least in part. According to Archer and White, the parties' contract barred arbitration of disputes when the plaintiff sought injunctive relief, even if only in part.

The question then became: Who decides whether the antitrust dispute is subject to arbitration? The rules of the American Arbitration Association provide that arbitrators have the power to resolve arbitrability questions. Schein contended that the contract's express incorporation of the American Arbitration Association's rules meant that an arbitrator—not the court—had to decide whether the arbitration agreement applied to this particular dispute. Archer and White responded that in cases where the defendant's argument for arbitration is wholly groundless—as Archer and White argued was the case here—the

District Court itself may resolve the threshold question of arbitrability.

Relying on Fifth Circuit precedent, the District Court agreed with Archer and White about the existence of a "wholly groundless" exception, and ruled that Schein's argument for arbitration was wholly groundless. The District Court therefore denied Schein's motion to compel arbitration. The Fifth Circuit affirmed.

In light of disagreement in the Courts of Appeals over whether the "wholly groundless" exception is consistent with the Federal Arbitration Act, we granted certiorari, 585 U. S. 1015 (2018). Compare 878 F. 3d 488 (case below); *Simply Wireless, Inc.* v. *T-Mobile US, Inc.*, 877 F. 3d 522 (CA4 2017); *Douglas* v. *Regions Bank*, 757 F. 3d 460 (CA5 2014); *Turi* v. *Main Street Adoption Servs., LLP*, 633 F. 3d 496 (CA6 2011); *Qualcomm Inc.* v. *Nokia Corp.*, 466 F. 3d 1366 (CA Fed. 2006), with *Belnap* v. *Iasis Healthcare*, 844 F. 3d 1272 (CA10 2017); *Jones* v. *Waffle House, Inc.*, 866 F. 3d 1257 (CA11 2017); *Douglas*, 757 F. 3d, at 464 (Dennis, J., dissenting).

II

In 1925, Congress passed and President Coolidge signed the Federal Arbitration Act. As relevant here, the Act provides:

> "A written provision in . . . a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract . . . shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract." 9 U. S. C. §2.

Under the Act, arbitration is a matter of contract, and courts must enforce arbitration contracts according to their terms. *Rent-A-Center*, 561 U. S., at 67. Applying the Act, we have held that parties may agree to have an arbitrator decide not only the merits of a particular dispute but also

"'gateway' questions of 'arbitrability,' such as whether the parties have agreed to arbitrate or whether their agreement covers a particular controversy." *Id.*, at 68–69; see also *First Options*, 514 U. S., at 943. We have explained that an "agreement to arbitrate a gateway issue is simply an additional, antecedent agreement the party seeking arbitration asks the federal court to enforce, and the FAA operates on this additional arbitration agreement just as it does on any other." *Rent-A-Center*, 561 U. S., at 70.

Even when the parties' contract delegates the threshold arbitrability question to an arbitrator, the Fifth Circuit and some other Courts of Appeals have determined that the court rather than an arbitrator should decide the threshold arbitrability question if, under the contract, the argument for arbitration is wholly groundless. Those courts have reasoned that the "wholly groundless" exception enables courts to block frivolous attempts to transfer disputes from the court system to arbitration.

We conclude that the "wholly groundless" exception is inconsistent with the text of the Act and with our precedent.

We must interpret the Act as written, and the Act in turn requires that we interpret the contract as written. When the parties' contract delegates the arbitrability question to an arbitrator, a court may not override the contract. In those circumstances, a court possesses no power to decide the arbitrability issue. That is true even if the court thinks that the argument that the arbitration agreement applies to a particular dispute is wholly groundless.

That conclusion follows not only from the text of the Act but also from precedent. We have held that a court may not "rule on the potential merits of the underlying" claim that is assigned by contract to an arbitrator, "even if it appears to the court to be frivolous." *AT&T Technologies, Inc.* v. *Communications Workers*, 475 U. S. 643, 649–650 (1986). A court has "'no business weighing the merits of the grievance'" because the "'agreement is to submit all grievances

to arbitration, not merely those which the court will deem meritorious.' " *Id.*, at 650 (quoting *Steelworkers* v. *American Mfg. Co.*, 363 U. S. 564, 568 (1960)).

That *AT&T Technologies* principle applies with equal force to the threshold issue of arbitrability. Just as a court may not decide a merits question that the parties have delegated to an arbitrator, a court may not decide an arbitrability question that the parties have delegated to an arbitrator.

In an attempt to overcome the statutory text and this Court's cases, Archer and White advances four main arguments. None is persuasive.

First, Archer and White points to §§ 3 and 4 of the Federal Arbitration Act. Section 3 provides that a court must stay litigation "upon being satisfied that the issue" is "referable to arbitration" under the "agreement." Section 4 says that a court, in response to a motion by an aggrieved party, must compel arbitration "in accordance with the terms of the agreement" when the court is "satisfied that the making of the agreement for arbitration or the failure to comply therewith is not in issue."

Archer and White interprets those provisions to mean, in essence, that a court must always resolve questions of arbitrability and that an arbitrator never may do so. But that ship has sailed. This Court has consistently held that parties may delegate threshold arbitrability questions to the arbitrator, so long as the parties' agreement does so by "clear and unmistakable" evidence. *First Options*, 514 U. S., at 944 (alterations and internal quotation marks omitted); see also *Rent-A-Center*, 561 U. S., at 69, n. 1. To be sure, before referring a dispute to an arbitrator, the court determines whether a valid arbitration agreement exists. See 9 U. S. C. § 2. But if a valid agreement exists, and if the agreement delegates the arbitrability issue to an arbitrator, a court may not decide the arbitrability issue.

Second, Archer and White cites § 10 of the Act, which provides for back-end judicial review of an arbitrator's deci-

sion if an arbitrator has "exceeded" his or her "powers." § 10(a)(4). According to Archer and White, if a court at the back end can say that the underlying issue was not arbitrable, the court at the front end should also be able to say that the underlying issue is not arbitrable. The dispositive answer to Archer and White's § 10 argument is that Congress designed the Act in a specific way, and it is not our proper role to redesign the statute. Archer and White's § 10 argument would mean, moreover, that courts presumably also should decide frivolous merits questions that have been delegated to an arbitrator. Yet we have already rejected that argument: When the parties' contract assigns a matter to arbitration, a court may not resolve the merits of the dispute even if the court thinks that a party's claim on the merits is frivolous. *AT&T Technologies*, 475 U. S., at 649–650. So, too, with arbitrability.

Third, Archer and White says that, as a practical and policy matter, it would be a waste of the parties' time and money to send the arbitrability question to an arbitrator if the argument for arbitration is wholly groundless. In cases like this, as Archer and White sees it, the arbitrator will inevitably conclude that the dispute is not arbitrable and then send the case back to the district court. So why waste the time and money? The short answer is that the Act contains no "wholly groundless" exception, and we may not engraft our own exceptions onto the statutory text. See *Exxon Mobil Corp.* v. *Allapattah Services, Inc.*, 545 U. S. 546, 556–557 (2005).

In addition, contrary to Archer and White's claim, it is doubtful that the "wholly groundless" exception would save time and money systemically even if it might do so in some individual cases. Archer and White assumes that it is easy to tell when an argument for arbitration of a particular dispute is wholly groundless. We are dubious. The exception would inevitably spark collateral litigation (with briefing, argument, and opinion writing) over whether a seemingly

unmeritorious argument for arbitration is *wholly* groundless, as opposed to groundless. We see no reason to create such a time-consuming sideshow.

Archer and White further assumes that an arbitrator would inevitably reject arbitration in those cases where a judge would conclude that the argument for arbitration is wholly groundless. Not always. After all, an arbitrator might hold a different view of the arbitrability issue than a court does, even if the court finds the answer obvious. It is not unheard-of for one fair-minded adjudicator to think a decision is obvious in one direction but for another fair-minded adjudicator to decide the matter the other way.

Fourth, Archer and White asserts another policy argument: that the "wholly groundless" exception is necessary to deter frivolous motions to compel arbitration. Again, we may not rewrite the statute simply to accommodate that policy concern. In any event, Archer and White overstates the potential problem. Arbitrators can efficiently dispose of frivolous cases by quickly ruling that a claim is not in fact arbitrable. And under certain circumstances, arbitrators may be able to respond to frivolous arguments for arbitration by imposing fee-shifting and cost-shifting sanctions, which in turn will help deter and remedy frivolous motions to compel arbitration. We are not aware that frivolous motions to compel arbitration have caused a substantial problem in those Circuits that have not recognized a "wholly groundless" exception.

In sum, we reject the "wholly groundless" exception. The exception is inconsistent with the statutory text and with our precedent. It confuses the question of who decides arbitrability with the separate question of who prevails on arbitrability. When the parties' contract delegates the arbitrability question to an arbitrator, the courts must respect the parties' decision as embodied in the contract.

We express no view about whether the contract at issue in this case in fact delegated the arbitrability question to an

arbitrator. The Court of Appeals did not decide that issue. Under our cases, courts "should not assume that the parties agreed to arbitrate arbitrability unless there is 'clear and unmistakable' evidence that they did so." *First Options*, 514 U. S., at 944 (alterations omitted). On remand, the Court of Appeals may address that issue in the first instance, as well as other arguments that Archer and White has properly preserved.

The judgment of the Court of Appeals is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

STOKELING *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 17–5554. Argued October 9, 2018—Decided January 15, 2019

Petitioner Stokeling pleaded guilty to possessing a firearm and ammunition after having been convicted of a felony, in violation of 18 U. S. C. § 922(g)(1). Based on Stokeling's prior criminal history, the probation office recommended the mandatory minimum 15-year prison term that the Armed Career Criminal Act (ACCA) provides for § 922(g) violators who have three previous convictions "for a violent felony," § 924(e). As relevant here, Stokeling objected that his prior Florida robbery conviction was not a "violent felony," which ACCA defines, in relevant part, as "any crime punishable by imprisonment for a term exceeding one year" that "has as an element the use, attempted use, or threatened use of physical force against the person of another," § 924(e)(2)(B)(i). The District Court held that Stokeling's actions during the robbery did not justify an ACCA sentence enhancement, but the Eleventh Circuit reversed.

Held:

1. ACCA's elements clause encompasses a robbery offense that requires the defendant to overcome the victim's resistance. Pp. 77–85.

(a) As originally enacted, ACCA prescribed a sentence enhancement for certain individuals with three prior convictions "for robbery or burglary," 18 U. S. C. App. § 1202(a) (1982 ed., Supp. II), and defined robbery as an unlawful taking "by force or violence," § 1202(c)(8)—a clear reference to common-law robbery, which required a level of "force" or "violence" sufficient to overcome the resistance of the victim, however slight. When Congress amended ACCA two years later, it replaced the enumerated crimes with the elements clause, an expanded enumerated-offenses clause, and the now-defunct residual clause. The new elements clause extended ACCA to cover *any* offense that has as an element "the use, attempted use, or threatened use of physical *force*," § 924(e)(2)(B)(i) (emphasis added). By replacing robbery with a clause that has "force" as its touchstone, Congress retained the same common-law definition that undergirded the definition of robbery in the original ACCA. This understanding is buttressed by the then widely accepted definitions of robbery among the States, a significant majority of which

Syllabus

defined nonaggravated robbery as requiring a degree of force sufficient only to overcome a victim's resistance. Under Stokeling's reading, many of those state robbery statutes would not qualify as ACCA predicates. But federal criminal statutes should not be construed in ways that would render them inapplicable in many States. Pp. 77–82.

(b) This understanding of "physical force" comports with *Johnson* v. *United States*, 559 U. S. 133. The force necessary for misdemeanor battery addressed in *Johnson* does not require resistance or even physical aversion on the part of the victim. Rather, the "slightest offensive touching" would qualify. *Id.*, at 139. It is thus different in kind from the force necessary to overcome resistance by a victim, which is inherently "violent" in the sense contemplated by *Johnson* and "suggest[s] a degree of power that would not be satisfied by the merest touching." *Ibid.* *Johnson* did not purport, as Stokeling suggests, to establish a force threshold so high as to exclude even robbery from ACCA's scope. Pp. 82–84.

(c) Stokeling's suggested definition of "physical force"—force "reasonably expected to cause pain or injury"—is inconsistent with the degree of force necessary to commit robbery at common law. Moreover, the Court declined to adopt this standard in *Johnson*. Stokeling's proposal would prove exceedingly difficult to apply, would impose yet another indeterminable line-drawing exercise on the lower courts, and is not supported by *United States* v. *Castleman*, 572 U. S. 157. Pp. 84–85.

2. Robbery under Florida law qualifies as an ACCA-predicate offense under the elements clause. The term "physical force" in ACCA encompasses the degree of force necessary to commit common-law robbery. And the Florida Supreme Court has made clear that the robbery statute requires "resistance by the victim that is overcome by the physical force of the offender." *Robinson* v. *State*, 692 So. 2d 883, 886. Pp. 85–87.

684 Fed. Appx. 870, affirmed.

THOMAS, J., delivered the opinion of the Court, in which BREYER, ALITO, GORSUCH, and KAVANAUGH, JJ., joined. SOTOMAYOR, J., filed a dissenting opinion, in which ROBERTS, C. J., and GINSBURG and KAGAN, JJ., joined, *post*, p 87.

Brenda G. Bryn argued the cause for petitioner. With her on the briefs were *Andrew L. Adler* and *Amir H. Ali*.

Frederick Liu argued the cause for the United States. With him on the brief were *Solicitor General Francisco*, *As-*

sistant Attorney General Benczkowski, *Eric J. Feigin*, and *John M. Pellettieri*.*

JUSTICE THOMAS delivered the opinion of the Court.

This case requires us to decide whether a robbery offense that has as an element the use of force sufficient to overcome a victim's resistance necessitates the use of "physical force" within the meaning of the Armed Career Criminal Act (ACCA), 18 U. S. C. § 924(e)(2)(B)(i). We conclude that it does.

I

In the early hours of July 27, 2015, two people burgled the Tongue & Cheek restaurant in Miami Beach, Florida. Petitioner Denard Stokeling was an employee of the restaurant, and the Miami Beach Police identified him as a suspect based on surveillance video from the burglary and witness statements. After conducting a criminal background check, police learned that Stokeling had previously been convicted of three felonies—home invasion, kidnaping, and robbery. When confronted, Stokeling admitted that he had a gun in his backpack. The detectives opened the backpack and discovered a 9-mm semiautomatic firearm, a magazine, and 12 rounds of ammunition.

Stokeling pleaded guilty in federal court to possessing a firearm and ammunition after having been convicted of a felony, in violation of 18 U. S. C. § 922(g)(1). The probation office recommended that Stokeling be sentenced as an armed career criminal under ACCA, which provides that a person who violates § 922(g) and who has three previous convictions for a "violent felony" shall be imprisoned for a minimum of 15 years. § 924(e). ACCA defines "violent felony" as "any

---

**Hyland Hunt*, *Ruthanne M. Deutsch*, *Jonathan D. Hacker*, and *Deanna M. Rice* filed a brief for the National Association of Criminal Defense Lawyers as *amicus curiae* urging reversal.

crime punishable by imprisonment for a term exceeding one year" that

> "(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or
>
> (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another." § 924(e)(2)(B).

As relevant here, Stokeling objected that his 1997 Florida robbery conviction was not a predicate offense under ACCA. This conviction, he argued, did not qualify under the first clause—the "elements clause"—because Florida robbery does not have "as an element the use, attempted use, or threatened use of physical force."*

Under Florida law, robbery is defined as "the taking of money or other property . . . from the person or custody of another, . . . when in the course of the taking there is the use of force, violence, assault, or putting in fear." Fla. Stat. § 812.13(1) (1995). The Florida Supreme Court has explained that the "use of force" necessary to commit robbery requires "resistance by the victim that is overcome by the physical force of the offender." *Robinson* v. *State*, 692 So. 2d 883, 886 (1997).

Instead of applying a categorical approach to the elements clause, the District Court evaluated whether the facts of Stokeling's robbery conviction were serious enough to warrant an enhancement. The court concluded that, although Stokeling "'grabbed [the victim] by the neck and tried to remove her necklaces'" as she "'held onto'" them, his actions did not "justify an enhancement." Sentencing Hearing in

---

*The Government did not argue that Florida robbery should qualify under § 924(e)(2)(B)(ii), presumably because robbery is not among the enumerated offenses and the Court held the "residual clause" unconstitutionally vague in *Johnson* v. *United States*, 576 U. S. 591 (2015).

No. 15–cr–20815 (SD Fla.), Doc. 45, pp. 10–11. The court then sentenced Stokeling to less than half of the mandatory minimum 15-year term of imprisonment provided by ACCA.

The Eleventh Circuit reversed. 684 Fed. Appx. 870 (2017). It held that the District Court erred in making its own factual determination about the level of violence involved in Stokeling's particular robbery offense. *Id.*, at 871. The court also rejected Stokeling's argument that Florida robbery does not categorically require sufficient force to constitute a violent felony under ACCA's elements clause. *Id.*, at 871–872.

We granted certiorari to address whether the "force" required to commit robbery under Florida law qualifies as "physical force" for purposes of the elements clause. 584 U. S. 915 (2018). We now affirm.

II

Construing the language of the elements clause in light of the history of ACCA and our opinion in *Johnson* v. *United States*, 559 U. S. 133 (2010), we conclude that the elements clause encompasses robbery offenses that require the criminal to overcome the victim's resistance.

A

As originally enacted, ACCA prescribed a 15-year minimum sentence for any person who received, possessed, or transported a firearm following three prior convictions "for robbery or burglary." 18 U. S. C. App. § 1202(a) (1982 ed., Supp. II). Robbery was defined in relevant part as "any felony consisting of the taking of the property of another from the person or presence of another *by force or violence*." § 1202(c)(8) (1982 ed., Supp. II) (emphasis added).

The statute's definition mirrored the elements of the common-law crime of robbery, which has long required force or violence. At common law, an unlawful taking was merely larceny unless the crime involved "violence." 2 J. Bishop,

Criminal Law § 1156, p. 860 (J. Zane & C. Zollmann eds., 9th ed. 1923). And "violence" was "committed if sufficient force [was] exerted to overcome the resistance encountered." *Id.*, at 861.

A few examples illustrate the point. Under the common law, it was robbery "to seize another's watch or purse, and use sufficient force to break a chain or guard by which it is attached to his person, or to run against another, or rudely push him about, for the purpose of diverting his attention and robbing him." W. Clark & W. Marshall, Law of Crimes 554 (H. Lazell ed., 2d ed. 1905) (Clark & Marshall) (footnotes omitted). Similarly, it was robbery to pull a diamond pin out of a woman's hair when doing so tore away hair attached to the pin. See 2 W. Russell, Crimes and Indictable Misdemeanors 68 (2d ed. 1828). But the crime was larceny, not robbery, if the thief did not have to overcome such resistance.

In fact, common-law authorities frequently used the terms "violence" and "force" interchangeably. See *ibid.* (concluding that "if any injury be done to the person, or there be any struggle by the party to keep possession of the property before it be taken from him, there will be a sufficient actual 'violence' " to establish robbery); Clark & Marshall 553 ("Sufficient *force* must be used to overcome resistance. . . . If there is any injury to the person of the owner, or if he resists the attempt to rob him, and his resistance is overcome, there is sufficient *violence* to make the taking robbery, however slight the resistance" (emphasis added)). The common law also did not distinguish between gradations of "violence." If an act physically overcame a victim's resistance, "however slight" that resistance might be, it necessarily constituted violence. *Ibid.*; 4 W. Blackstone, Commentaries on the Laws of England 242 (1769) (distinguishing "taking . . . by force" from "privately stealing," and stating that the use of this "violence" differentiates robbery from other larcenies); see also 3 *id.*, at 120 (explaining, in the battery context, that

"the law cannot draw the line between different degrees of violence, and therefore totally prohibits the first and lowest stage of it").

The overlap between "force" and "violence" at common law is reflected in modern legal and colloquial usage of these terms. "Force" means "[p]ower, violence, or pressure directed against a person or thing," Black's Law Dictionary 656 (7th ed. 1999), or "unlawful violence threatened or committed against persons or property," Random House Dictionary of the English Language 748 (2d ed. 1987). Likewise, "violence" implies force, including an "unjust or unwarranted use of force." Black's Law Dictionary, at 1564; accord, Random House Dictionary, at 2124 ("rough or injurious physical force, action, or treatment," or "an unjust or unwarranted exertion of force or power, as against rights or laws").

Against this background, Congress, in the original ACCA, defined robbery as requiring the use of "force or violence"—a clear reference to the common law of robbery. See *Samantar* v. *Yousuf*, 560 U. S. 305, 320, n. 13 (2010) ("Congress 'is understood to legislate against a background of common-law . . . principles' "). And the level of "force" or "violence" needed at common law was by this time well established: "Sufficient force must be used to overcome resistance . . . however slight the resistance." Clark & Marshall 553.

In 1986, Congress amended the relevant provisions of ACCA to their current form. The amendment was titled Expansion of Predicate Offenses for Armed Career Criminal Penalties. See Career Criminals Amendment Act of 1986, § 1402, 100 Stat. 3207–39. This amendment replaced the two enumerated crimes of "robbery or burglary" with the current elements clause, a new enumerated-offenses list, and a (now-defunct) residual clause. See *Johnson* v. *United States*, 576 U. S. 591 (2015). In the new statute, robbery was no longer enumerated as a predicate offense. But the newly created elements clause extended ACCA to cover

any offense that has as an element "the use, attempted use, or threatened use of physical *force*." 18 U. S. C. § 924(e)(2)(B)(i) (2012 ed.) (emphasis added).

"'[I]f a word is obviously transplanted from another legal source, whether the common law or other legislation, it brings the old soil with it.'" *Hall* v. *Hall*, 584 U. S. 59, 73 (2018) (quoting Frankfurter, Some Reflections on the Reading of Statutes, 47 Colum. L. Rev. 527, 537 (1947)). That principle supports our interpretation of the term "force" here. By retaining the term "force" in the 1986 version of ACCA and otherwise "[e]xpan[ding]" the predicate offenses under ACCA, Congress made clear that the "force" required for common-law robbery would be sufficient to justify an enhanced sentence under the new elements clause. We can think of no reason to read "force" in the revised statute to require anything more than the degree of "force" required in the 1984 statute. And it would be anomalous to read "force" as *excluding* the quintessential ACCA-predicate crime of robbery, despite the amendment's retention of the term "force" and its stated intent to expand the number of qualifying offenses.

The symmetry between the 1984 definition of robbery (requiring the use of "force or violence") and the 1986 elements clause (requiring the use of "physical force") is striking. By replacing robbery as an enumerated offense with a clause that has "force" as its touchstone, Congress made clear that "force" retained the same common-law definition that undergirded the original definition of robbery adopted a mere two years earlier. That conclusion is reinforced by the fact that the original 1984 statute defined "robbery" using terms with well-established common-law meanings.

Our understanding of "physical force" is further buttressed by the then widely accepted definitions of robbery in the States. In 1986, a significant majority of the States defined nonaggravated robbery as requiring force that over-

comes a victim's resistance. The Government counts 43 States that measured force by this degree, 5 States that required "force" to cause bodily injury, and 2 States and the District of Columbia that permitted force to encompass something less, such as purse snatching. App. B to Brief for United States. Stokeling counters that, at most, 31 States defined force as overcoming victim resistance. Reply Brief 21. We need not declare a winner in this numbers game because, either way, it is clear that many States' robbery statutes would not qualify as ACCA predicates under Stokeling's reading.

His reading would disqualify more than just basic-robbery statutes. Departing from the common-law understanding of "force" would also exclude other crimes that have as an element the force required to commit basic robbery. For instance, Florida requires the same element of "force" for both armed robbery and basic robbery. See Fla. Stat. § 812.13(2)(a) (distinguishing armed robbery from robbery by requiring the additional element of "carr[ying] a firearm or other deadly weapon" during the robbery). Thus, as Stokeling's counsel admitted at oral argument, "armed robbery in Florida" would not qualify under ACCA if his view were adopted. Tr. of Oral Arg. 3–4; see *United States* v. *Lee*, 886 F. 3d 1161, 1163, n. 1 (CA11 2018) (treating "Florida strong-arm robbery [*i. e.*, basic robbery], armed robbery, and attempted robbery . . . the same for purposes of analyzing the ACCA's elements clause").

Where, as here, the applicability of a federal criminal statute requires a state conviction, we have repeatedly declined to construe the statute in a way that would render it inapplicable in many States. See, *e. g.*, *United States* v. *Castleman*, 572 U. S. 157, 167 (2014) (reading "physical force" to include common-law force, in part because a different reading would render 18 U. S. C. § 922(g)(9) "ineffectual in at least 10 States"); *Voisine* v. *United States*, 579 U. S. 686, 696 (2016)

(declining to interpret § 912(a)(33)(A) in a way that would "ris[k] rendering § 922(g)(9) broadly inoperative" in 34 States and the District of Columbia). That approach is appropriate here as well.

B

Our understanding of "physical force" comports with *Johnson* v. *United States*, 559 U. S. 133 (2010). There, the Court held that "'actua[l] and intentiona[l] touching'"—the level of force necessary to commit common-law misdemeanor battery—did not require the "degree of force" necessary to qualify as a "violent felony" under ACCA's elements clause. *Id.*, at 138, 140. To reach this conclusion, the Court parsed the meaning of the phrase "physical force." First, it explained that the modifier "physical" "plainly refers to force exerted by and through concrete bodies—distinguishing physical force from, for example, intellectual force or emotional force." *Id.*, at 138. The Court then considered "whether the term 'force' in [the elements clause] has the specialized meaning that it bore in the common-law definition of battery." *Id.*, at 139. After reviewing the context of the statute, the Court rejected the Government's suggestion that "force" encompassed even the "slightest offensive touching." *Ibid.* Instead, it held that "physical force" means "*violent* force—that is, force capable of causing physical pain or injury to another person." *Id.*, at 140. Applying that standard to a Florida battery law criminalizing "*any* intentional physical contact," the Court concluded that the law did not require the use of "physical force" within the meaning of ACCA. *Ibid.*

Stokeling argues that *Johnson* rejected as insufficient the degree of "force" required to commit robbery under Florida law because it is not "substantial force." We disagree. The nominal contact that *Johnson* addressed involved physical force that is different in kind from the violent force necessary to overcome resistance by a victim. The force necessary for misdemeanor battery does not require resistance or

even physical aversion on the part of the victim; the "unwanted" nature of the physical contact itself suffices to render it unlawful. See *State* v. *Hearns*, 961 So. 2d 211, 216 (Fla. 2007).

By contrast, the force necessary to overcome a victim's physical resistance is inherently "violent" in the sense contemplated by *Johnson*, and "suggest[s] a degree of power that would not be satisfied by the merest touching." 559 U. S., at 139. This is true because robbery that must overpower a victim's will—even a feeble or weak-willed victim—necessarily involves a physical confrontation and struggle. The altercation need not cause pain or injury or even be prolonged; it is the physical contest between the criminal and the victim that is itself "capable of causing physical pain or injury." *Id.*, at 140. Indeed, *Johnson* itself relied on a definition of "physical force" that specifically encompassed robbery: "'[f]orce consisting in a physical act, *esp. a violent act directed against a robbery victim.*'" *Id.*, at 139 (quoting Black's Law Dictionary 717 (9th ed. 2009); emphasis added). Robbery thus has always been within the "'category of violent, active crimes'" that Congress included in ACCA. 559 U. S., at 140.

To get around *Johnson*, Stokeling cherry picks adjectives from parenthetical definitions in the opinion, insisting that the level of force must be "severe," "extreme," "furious," or "vehement." These adjectives cannot bear the weight Stokeling would place on them. They merely supported *Johnson*'s actual holding: that common-law battery does not require "force capable of causing physical pain or injury." *Ibid.* *Johnson* did not purport to establish a force threshold so high as to exclude even robbery from ACCA's scope. Moreover, Stokeling ignores that the Court also defined "violence" as "'*unjust or improper* force.'" *Ibid.* (emphasis added). As explained above, the common law similarly linked the terms "violence" and "force." Overcoming a victim's resistance was *per se* violence against the victim, even

if it ultimately caused minimal pain or injury. See Russell, Crimes and Indictable Misdemeanors, at 68.

C

In the wake of *Johnson*, the Court has repeated its holding that "physical force" means "'force capable of causing physical pain or injury.'" *Sessions* v. *Dimaya*, 584 U. S. 148, 170 (2018) (quoting *Johnson*, *supra*, at 140); see also *Castleman*, *supra*, at 173–174 (Scalia, J., concurring in part and concurring in judgment).

Finding this definition difficult to square with his position, Stokeling urges us to adopt a new, heightened reading of physical force: force that is "reasonably expected to cause pain or injury." For the reasons already explained, that definition is inconsistent with the degree of force necessary to commit robbery at common law. Moreover, the Court declined to adopt that standard in *Johnson*, even after considering similar language employed in a nearby statutory provision, 18 U. S. C. §922(g)(8)(C)(ii). 559 U. S., at 143. The Court instead settled on "force *capable* of causing physical pain or injury." *Id.*, at 140 (emphasis added). "Capable" means "susceptible" or "having attributes . . . required for performance or accomplishment" or "having traits conducive to or features permitting." Webster's Ninth New Collegiate Dictionary 203 (1983); see also Oxford American Dictionary and Thesaurus 180 (2d ed. 2009) ("having the ability or quality necessary to do"). *Johnson* thus does not require any particular degree of likelihood or probability that the force used will cause physical pain or injury; only potentiality.

Stokeling's proposed standard would also prove exceedingly difficult to apply. Evaluating the statistical probability that harm will befall a victim is not an administrable standard under our categorical approach. Crimes can be committed in many different ways, and it would be difficult to assess whether a crime is categorically likely to harm the

victim, especially when the statute at issue lacks fine-tuned gradations of "force." We decline to impose yet another indeterminable line-drawing exercise on the lower courts.

Stokeling next contends that *Castleman* held that minor uses of force do not constitute "violent force," but he misreads that opinion. In *Castleman*, the Court noted that for purposes of a statute focused on domestic-violence misdemeanors, crimes involving relatively "[m]inor uses of force" that might not "constitute 'violence' in the generic sense" could nevertheless qualify as predicate offenses. 572 U. S., at 165. The Court thus had no need to decide more generally whether, under *Johnson*, conduct that leads to relatively minor forms of injury—such as "'a cut, abrasion, [or] bruise'"—"necessitate[s]" the use of "violent force." 572 U. S., at 170. Only Justice Scalia's separate opinion addressed that question, and he concluded that force as small as "'hitting, slapping, shoving, grabbing, pinching, biting, and hair pulling,'" *id.*, at 182 (alterations omitted), satisfied *Johnson*'s definition. He reasoned that "[n]one of those actions bears any real resemblance to mere offensive touching, and all of them are capable of causing physical pain or injury." 572 U. S., at 182. This understanding of "physical force" is consistent with our holding today that force is "capable of causing physical injury" within the meaning of *Johnson* when it is sufficient to overcome a victim's resistance. Such force satisfies ACCA's elements clause.

III

We now apply these principles to Florida's robbery statute to determine whether it "has as an element the use, attempted use, or threatened use of physical force against the person of another." 18 U. S. C. § 924(e)(2)(B)(i). We conclude that it does.

As explained, Florida law defines robbery as "the taking of money or other property . . . from the person or custody of another, . . . when in the course of the taking there is the

use of force, violence, assault, or putting in fear." Fla. Stat. § 812.13(1). The Florida Supreme Court has made clear that this statute requires "resistance by the victim that is overcome by the physical force of the offender." *Robinson* v. *State*, 692 So. 2d 883, 886 (1997). Mere "snatching of property from another" will not suffice. *Ibid.*

Several cases cited by the parties illustrate the application of the standard articulated in *Robinson*. For example, a defendant who grabs the victim's fingers and peels them back to steal money commits robbery in Florida. *Sanders* v. *State*, 769 So. 2d 506, 507–508 (Fla. App. 2000). But a defendant who merely snatches money from the victim's hand and runs away has not committed robbery. *Goldsmith* v. *State*, 573 So. 2d 445 (Fla. App. 1991). Similarly, a defendant who steals a gold chain does not use "'force,' within the meaning of the robbery statute," simply because the victim "fe[els] his fingers on the back of her neck." *Walker* v. *State*, 546 So. 2d 1165, 1166–1167 (Fla. App. 1989). It is worth noting that, in 1999, Florida enacted a separate "sudden snatching" statute that proscribes this latter category of conduct; under that statute, it is unnecessary to show either that the defendant "used any amount of force beyond that effort necessary to obtain possession of the money or other property" or that "[t]here was any resistance offered by the victim to the offender." Fla. Stat. § 812.131 (1999).

Thus, the application of the categorical approach to the Florida robbery statute is straightforward. Because the term "physical force" in ACCA encompasses the degree of force necessary to commit common-law robbery, and because Florida robbery requires that same degree of "force," Florida robbery qualifies as an ACCA-predicate offense under the elements clause. Cf. *Descamps* v. *United States*, 570 U. S. 254, 261 (2013) ("If the relevant statute has the same elemen[t]," "then the prior conviction can serve as an ACCA predicate").

IV

In sum, "physical force," or "force capable of causing physical pain or injury," *Johnson*, 559 U. S., at 140, includes the amount of force necessary to overcome a victim's resistance. Robbery under Florida law corresponds to that level of force and therefore qualifies as a "violent felony" under ACCA's elements clause. For these reasons, we affirm the judgment of the Eleventh Circuit.

It is so ordered.

JUSTICE SOTOMAYOR, with whom THE CHIEF JUSTICE, JUSTICE GINSBURG, and JUSTICE KAGAN join, dissenting.

In *Johnson* v. *United States*, 559 U. S. 133 (2010), this Court ruled that the words "physical force" in the Armed Career Criminal Act (ACCA), 18 U. S. C. § 924(e)(2), denote a heightened degree of force rather than the minimal contact that would have qualified as "force" for purposes of the common-law crime of battery. 559 U. S., at 139–140. This case asks whether Florida robbery requires such "physical force," and thus qualifies as a "violent felony" under the ACCA, even though it can be committed through use of only slight force. See § 924(e)(2)(B). Under *Johnson*, the answer to that question is no. Because the Court's contrary ruling distorts *Johnson*, I respectfully dissent.

I

As the majority explains, petitioner Denard Stokeling pleaded guilty in 2016 to being a felon in possession of a firearm in violation of 18 U. S. C. § 922(g)(1). The Government and the probation department argued for an increased sentence under the ACCA. Stokeling objected.

The ACCA imposes a 15-year mandatory-minimum sentence on any § 922(g) offender who has been convicted of at least three qualifying predicate convictions. § 924(e)(1). As relevant here, a past conviction can qualify as an ACCA

predicate if it is what the ACCA calls a "violent felony"—that is, "any crime punishable by imprisonment for a term exceeding one year" that

> "(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or
>
> "(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another." § 924(e)(2)(B).

Clause (i) is often called the "elements clause" (or "force clause"), because it requires each qualifying crime to have an element involving force. The first part of clause (ii) is often called the "enumerated clause," because it enumerates certain generic crimes—such as burglary—that Congress sought to cover. The final part of clause (ii), often called the "residual clause," once offered a catchall to sweep in otherwise uncovered convictions, but the Court struck it down as unconstitutionally vague in 2015. See *Johnson* v. *United States*, 576 U. S. 591, 605. So the elements clause and the enumerated clause are now the only channels by which a prior conviction can qualify as an ACCA "violent felony."

Whether Stokeling is subject to the ACCA's 15-year mandatory minimum hinges on whether his 1997 conviction for Florida robbery, see App. 10, qualifies under the elements clause. To determine whether a conviction qualifies as a violent felony under the ACCA, courts apply a method called the categorical approach. See *Taylor* v. *United States*, 495 U. S. 575, 600–602 (1990). In the elements-clause context, that method requires asking whether the least culpable conduct covered by the statute at issue nevertheless "has as an element the use, attempted use, or threatened use of physical force against the person of another." § 924(e)(2); see *Johnson*, 559 U. S., at 137. If it does not, then the statute is too broad to qualify as a "violent felony." In determining what

a state crime covers for purposes of this federal sentencing enhancement, federal courts look to, and are constrained by, state courts' interpretations of state law. See *id.*, at 138.

As relevant here, Florida law defines robbery as "the taking of money or other property . . . from the person or custody of another . . . when in the course of the taking there is the use of force, violence, assault, or putting in fear." Fla. Stat. § 812.13(1) (2017). The Florida Supreme Court has interpreted the statute's reference to force to require "force sufficient to overcome a victim's resistance." *Robinson* v. *State*, 692 So. 2d 883, 887 (1997). Otherwise, the "degree of force used is immaterial." *Montsdoca* v. *State*, 84 Fla. 82, 86, 93 So. 157, 159 (1922). If the resistance is minimal, the force need only be minimal as well.

II

Florida robbery, as interpreted and applied by the Florida courts, covers too broad a range of conduct to qualify as a "violent felony" under the ACCA. Both the text and purpose of the ACCA—particularly as they have already been construed by our precedents—demonstrate why.

A

In considering the text of the ACCA, we do not write on a clean slate. As everyone seems to agree, the key precedent here is this Court's decision in *Johnson* v. *United States*, 559 U. S. 133. See *ante*, at 77, 82. But while the majority claims to honor *Johnson*, *ante*, at 82–84, it does so in the breach.

Johnson concerned whether Florida battery qualified as an ACCA predicate under the elements clause. This Court held that it did not. To arrive at that answer, the Court was required to interpret what exactly Congress meant when it used the words "physical force" to define the kind of "violent felony" that should be captured by the ACCA's elements clause. See 559 U. S., at 138–143.

Rather than parsing "cherry pick[ed] adjectives," *ante*, at 83, it is instructive to look to how *Johnson* actually answered that question. Writing for the Court, Justice Scalia explained:

> "We think it clear that in the context of a statutory definition of '*violent* felony,' the phrase 'physical force' means *violent* force—that is, force capable of causing physical pain or injury to another person. See *Flores* v. *Ashcroft*, 350 F. 3d 666, 672 (CA7 2003) (Easterbrook, J.). Even by itself, the word 'violent' in § 924(e)(2)(B) connotes a substantial degree of force. Webster's Second 2846 (defining 'violent' as '[m]oving, acting, or characterized, by physical force, esp. by extreme and sudden or by unjust or improper force; furious; severe; vehement . . . '); 19 Oxford English Dictionary 656 (2d ed. 1989) ('[c]haracterized by the exertion of great physical force or strength'); Black's [Law Dictionary] 1706 [(9th ed. 2009)] ('[o]f, relating to, or characterized by strong physical force'). When the adjective 'violent' is attached to the noun 'felony,' its connotation of strong physical force is even clearer. See *id.*, at 1188 (defining 'violent felony' as '[a] crime characterized by extreme physical force, such as murder, forcible rape, and assault and battery with a dangerous weapon'); see also *United States* v. *Doe*, 960 F. 2d 221, 225 (CA1 1992) (Breyer, C. J.) ('[T]he term to be defined, "violent felony," . . . calls to mind a tradition of crimes that involve the possibility of more closely related, active violence')." 559 U. S., at 140–141.

In other words, in the context of a statute delineating "violent felon[ies]," the phrase "physical force" signifies a degree of force that is "*violent*," "substantial," and "strong"—"that is, force capable of causing physical pain or injury to another person." See *id.*, at 140; see also *id.*, at 142 ("As we have discussed . . . the term 'physical force' itself normally con-

notes force strong enough to constitute 'power'—and all the more so when it is contained in a definition of 'violent felony' ").

The majority, slicing *Johnson* up, concentrates heavily on the phrase "capable of causing physical pain or injury" and emphasizes the dictionary definition of the word "capable" to suggest that *Johnson* "does not require any particular degree of likelihood or probability" of "pain or injury"—merely, as with any law professor's eggshell-victim hypothetical, "potentiality." *Ante*, at 84. Our opinions, however, should not be "parsed as though we were dealing with language of a statute," *Reiter* v. *Sonotone Corp.*, 442 U. S. 330, 341 (1979), and in any event, the majority's parsing goes astray. It is clear in context that the Court in *Johnson* did not mean the word "capable" in the way that the majority uses it today, because *Johnson* rejected an interpretation of "physical force" that would have included a crime of battery that could be satisfied by "[t]he most 'nominal contact,' such as a 'ta[p] . . . on the shoulder without consent.' " 559 U. S., at 138. As any first-year torts student (or person with a shoulder injury) quickly learns, even a tap on the shoulder is "capable of causing physical pain or injury" in certain cases. So the Court could not have meant "capable" in the "potentiality" sense that the majority, *ante*, at 84, ascribes to it. Rather, it meant it in the sense that its entire text indicates: "force capable of causing physical pain or injury" in the sense that a "strong" or "substantial degree of force" can cause physical pain or injury. See *Johnson*, 559 U. S., at 140. The phrase denoted, that is, a heightened degree of force.

Florida robbery, as interpreted by the Florida Supreme Court, cannot meet *Johnson*'s definition of physical force. As noted above, Florida robbery requires "force sufficient to overcome a victim's resistance." *Robinson*, 692 So. 2d, at 887. But that can mean essentially no force at all. See *McCloud* v. *State*, 335 So. 2d 257, 258 (Fla. 1976) ("Any degree

of force suffices to convert larceny into a robbery"); *Montsdoca*, 84 Fla., at 86, 93 So., at 159 ("The degree of force used is immaterial"). For example, the force element of Florida robbery is satisfied by a pickpocket who attempts to pull free after the victim catches his arm. See *Robinson*, 692 So. 2d, at 887, n. 10 (citing *Colby* v. *State*, 46 Fla. 112, 113, 35 So. 189, 190 (1903)). Florida courts have held the same for a thief who pulls cash from a victim's hand by "'peel[ing his] fingers back,'" regardless of "[t]he fact that [the victim] did not put up greater resistance." *Sanders* v. *State*, 769 So. 2d 506, 507 (Fla. App. 2000). The Government concedes, similarly, that a thief who grabs a bag from a victim's shoulder also commits Florida robbery, so long as the victim instinctively holds on to the bag's strap for a moment. See Tr. of Oral Arg. 32–34; see also *Benitez-Saldana* v. *State*, 67 So. 3d 320, 322–323 (Fla. App. 2011). And Stokeling points to at least one person who was convicted of Florida robbery after causing a bill to rip while pulling cash from a victim's hand. See App. B to Brief for Petitioner.

While these acts can, of course, be accomplished with more than minimal force, they need not be. The thief who loosens an already loose grasp or (assuming the angle is right) tears the side of a $5 bill has hardly used any force at all. Nor does the thief who simply pulls his arm free from a store employee's weak grasp or snatches a handbag onto which a victim fleetingly holds use "force capable of causing physical pain or injury to another person" in the sense that *Johnson* meant the phrase, because he does not use "a substantial degree of force" or "strong physical force." 559 U. S., at 140. By providing that "[a]ny degree of force suffices to convert larceny into a robbery," *McCloud*, 335 So. 2d, at 258—and thus making robbers out of thieves who use minimal force—Florida expands its law beyond the line that *Johnson* drew. The least culpable conduct proscribed by Fla. Stat. §812.13 does not entail "physical force,"

§ 924(e)(2)(B)(i), as this Court properly construed that phrase in *Johnson*.

B

The purpose underlying the ACCA confirms that a robbery statute that sweeps as broadly as Florida's does not qualify as an ACCA predicate.

As noted above, the ACCA prescribes a 15-year mandatory-minimum prison term for anyone convicted of being a felon in possession of a firearm so long as that person has three qualifying past convictions. In *Begay* v. *United States*, 553 U. S. 137 (2008), this Court explained that, "[a]s suggested by its title, the Armed Career Criminal Act focuses upon the special danger created when a particular type of offender—a violent criminal or drug trafficker—possesses a gun." *Id.*, at 146. The ACCA, that is to say, does not look to past crimes simply to get a sense of whether a particular defendant is generally a recidivist; rather, it looks to past crimes to determine specifically "the kind or degree of danger the offender would pose were he to possess a gun." *Ibid.*

Begay considered whether a New Mexico felony conviction for driving under the influence of alcohol (DUI) qualified as an ACCA predicate under the now-defunct residual clause. See *id.*, at 141–142. Felony DUI, the Court explained, did not fit with the types of crimes that Congress was trying to capture, because while it "reveal[ed] a degree of callousness toward risk," it did not "show an increased likelihood that the offender is the kind of person who might deliberately point [a] gun and pull the trigger." *Id.*, at 146. The Court had "no reason to believe that Congress intended a 15-year mandatory prison term where that increased likelihood does not exist." *Ibid.*

The same is true here. The lower grade offenders whom Florida still chooses to call "robbers" do not bear the hallmarks of being the kind of people who are likely to point a

gun and pull the trigger, nor have they committed the more aggravated conduct—pointing a weapon, inflicting bodily injury—that most people think of when they hear the colloquial term "robbery." Under Florida law, "robbers" can be glorified pickpockets, shoplifters, and purse snatchers. No one disputes that such an offender, if later discovered illegally in possession of a firearm, will in many cases merit greater punishment as a result of the past offense; unless it occurred far in the past, such a conviction will typically increase that defendant's advisory sentencing range under the U. S. Sentencing Guidelines. See *Rosales-Mireles* v. *United States*, 585 U. S. 129, 133–134 (2018); United States Sentencing Commission, Guidelines Manual §§ 1B1.1(a)(6)–(7), 4A1.1, 4A1.2(e) (Nov. 2018). But there is "no reason to believe that Congress intended a 15-year mandatory prison term" for such offenders, who do not present the increased risk of gun violence that more aggravated offenders present. *Begay*, 553 U. S., at 146.

III

Unable to rely heavily on text, precedent, or purpose to support its holding that Florida robbery qualifies as an ACCA "violent felony," the majority turns to the common law, to legislative and statutory history, and finally to what it perceives as the consequences of ruling for Stokeling. None of these rationales is persuasive.

A

The majority observes that Florida's statute requires no less force than was necessary to commit common-law robbery. That may well be true: The majority notes, for example, that at common law "it was robbery to pull a diamond pin out of a woman's hair when doing so tore away hair attached to the pin," *ante*, at 78, and as anyone who has ever pulled a bobby pin out of her hair knows, hair can break from even the most minimal force. In the majority's telling,

however, the ACCA itself "encompasses the degree of force necessary to commit common-law robbery." *Ante*, at 86. That proposition is flatly inconsistent with *Johnson*.

In explaining its interpretation of "physical force," the Court in *Johnson* expressly rejected the common law's definition of "force," see 559 U. S., at 139, instead recognizing that the phrase should be "give[n] . . . its ordinary meaning," *id.*, at 138. At common law, "force" could be "satisfied by even the slightest offensive touching." *Id.*, at 139. But as the Court observed, "[a]lthough a common-law term of art should be given its established common-law meaning, we do not assume that a statutory word is used as a term of art where that meaning does not fit." *Ibid.* (citation omitted). Rather, "context determines meaning," *ibid.*, and, "in the context of a statutory definition of '*violent* felony,'" the ordinary rather than the common-law meaning of "force" was what fit, *id.*, at 140.

The majority now says that while *Johnson* rejected the common-law meaning of force with regard to battery, it nevertheless meant somehow to preserve the common-law meaning of force with regard to robbery. See *ante*, at 77–80, 82–84. In other words, to reach its conclusion, the majority must construe "physical force" in § 924(e)(2)(B)(i) to bear two different meanings—*Johnson*'s and the majority's—depending on the crime to which it is being applied. That is a radical and unsupportable step.

To be clear, the majority does not simply rule that the phrase "physical force" carries the common-law meaning in one place but a different meaning in another statutory provision. There would certainly be precedent for that. See, *e. g.*, *United States* v. *Castleman*, 572 U. S. 157, 162–168 (2014) (explaining why the phrase "physical force" took on a common-law meaning, rather than its ACCA meaning under *Johnson*, in the context of a statute defining a "'misdemeanor crime of domestic violence'"). *Johnson*, in fact,

expressly reserved the question whether "physical force" might mean something different in the context of a different statutory definition. See 559 U. S., at 143–144.

What *Johnson* did not do, however, was suggest that "physical force" in a single clause—the elements clause—that *Johnson* addressed might mean two different things for two different crimes. See *id.*, at 143 ("We have interpreted the phrase 'physical force' only in the context of a statutory definition of 'violent felony'"); see also *id.*, at 138–142. *Johnson* had good reason not to say so: because that is not how we have said that statutory interpretation works. See, *e. g.*, *Clark* v. *Martinez*, 543 U. S. 371, 378 (2005) (observing that a single statutory word or phrase "cannot . . . be interpreted to do" two different things "at the same time"); *Ratzlaf* v. *United States*, 510 U. S. 135, 143 (1994) (similar).

Starting today, however, the phrase "physical force" in § 924(e)(2)(B)(i) will apparently lead a Janus-faced existence. When it comes to battery, that phrase will look toward ordinary meaning; when it comes to robbery, that same piece of statutory text will look toward the common law. To the extent that is a tenable construction, the majority has announced a brave new world of textual interpretation. To the extent that a phrase so divided cannot stand, meanwhile, one could be forgiven for thinking that the majority, though it claims to praise *Johnson*, comes instead to bury it.

B

To shore up its argument that the ACCA's use of the phrase "physical force," at least in the context of robbery, takes on the common-law meaning of "force," the majority invokes the history of the ACCA. Statutory history is no help to the majority here.

As the majority notes, a precursor to the ACCA prescribed a mandatory-minimum sentence for people convicted of firearm offenses who had three qualifying prior convictions "for robbery or burglary." 18 U. S. C. App. § 1202(a)

(1982 ed., Supp. II). That statute defined robbery, as relevant, as "the taking of the property of another . . . by force or violence." § 1202(c)(8) (1982 ed., Supp. II). See *ante*, at 77. In other words, it is undisputed that at one point, in a previous statute, Congress enumerated robbery as a qualifying predicate and used the words "force or violence" to describe a generic version of the crime.

Then, in 1986, Congress changed the statute, substituting instead the language we know today. See Career Criminals Amendment Act of 1986, § 1402, 100 Stat. 3207–39. Gone was any explicit reference to "robbery"; in its place came not only the elements clause (our focus here) but also the enumerated clause (which retained an express reference to "burglary" but omitted "robbery") and the capacious residual clause (struck down in 2015). See *ante*, at 79–80; *supra*, at 88; see also *Taylor*, 495 U. S., at 582–584. So Congress did two salient things: It expanded the predicates in general, and it deleted an express reference to robbery.

The majority reasons that because (1) the old law's definition of "robbery" as a taking involving "force or violence" matched various common-law definitions of robbery, (2) Congress kept the word "force" (though not "or violence") in the new law's elements clause while deleting the word "robbery," and (3) Congress meant to expand the enhancement's reach in a general sense, Congress must have meant for the phrase "physical force" in the new law also to carry the common-law meaning of robbery. See *ante*, at 77–80. The conclusion that the majority draws from these premises does not follow, for at least four reasons.

First, as already discussed, the question whether Congress' use of the phrase "physical force" in the new law—that is, in the ACCA's elements clause—carries the common-law meaning of "force" was already asked and answered by *Johnson*: It does not. See 559 U. S., at 138–143, 145; *supra*, at 95–96. This part of the majority's argument may be couched in statutory history, but it is no more than an attempt to relitigate *Johnson*.

Second, Congress deleted the word "robbery" from the statute altogether while still enumerating robbery's former neighbor, "burglary," in the enumerated clause. See *supra*, at 88, 97. When Congress keeps one piece of statutory text while deleting another, we generally "have no trouble concluding that" it does so with purpose, *Director of Revenue of Mo.* v. *CoBank ACB*, 531 U. S. 316, 324 (2001), absent some reason to believe that the missing term simply got "lost in the shuffle," *United States* v. *Wilson*, 503 U. S. 329, 336 (1992). See also, *e. g.*, *Russello* v. *United States*, 464 U. S. 16, 23–24 (1983) ("Where Congress includes limiting language in an earlier version of a bill but deletes it prior to enactment, it may be presumed that the limitation was not intended"). Here, it is inconceivable that Congress simply lost track of robbery, one of only two generic crimes that it enumerated in the old statute. Accordingly, if Congress had wanted to retain the old statute's specific emphasis on robbery, the natural reading is that it would have accomplished that goal the same way it did with burglary: by making it an enumerated offense. That it did not do so is telling.

Third, the fact that Congress wished to "expan[d] the predicate offenses triggering the sentence enhancement," *Taylor*, 495 U. S., at 582, is entirely consistent with paring back the statute's sweep with regard to robbery specifically. I may wish to expand the contents of my refrigerator, but that does not mean that I will buy more of every single item that is currently in it the next time that I go shopping. Here, the ACCA—with its (new, generalized) elements clause, its (augmented) enumerated clause, and (until recently) its highly capacious residual clause—undeniably expanded the precursor statute's bare enumeration of robbery and burglary, regardless of how many robbery statutes qualify as predicates specifically under the elements clause.[1]

[1] Of course, whether Congress wished to pull back the throttle with regard to robbery across the whole ACCA is less certain. (Recall that Congress also enacted the capacious residual clause.) But that is why the

Fourth, even assuming that Congress wanted robbery to remain largely encompassed by the ACCA despite deleting the word from the precursor statute, that intent is fully consistent with properly applying *Johnson* here. The majority, by focusing on the elements clause, ignores the residual clause, which—until it was declared unconstitutional in 2015—provided a home for many crimes regardless of whether they included an element of violent "physical force."[2] Hewing to a proper reading of *Johnson*, in other words, does not require assuming that Congress constricted the precursor statute's application to robbery when it enacted today's ACCA; whatever robberies would have qualified under the old statute presumably could have still qualified under the residual clause during its nearly 20-year existence.

In short, the statutory history does not undermine the conclusion that the ACCA's elements clause, under our precedents, is not broad enough to encompass Florida's robbery

statutory history cannot tell us what the majority claims that it can about the elements clause specifically. Instead, the more reliable guide is the new text that Congress enacted to replace the old. Cf. *West Virginia Univ. Hospitals, Inc.* v. *Casey*, 499 U. S. 83, 98 (1991) ("The best evidence of [Congress'] purpose is the statutory text adopted by both Houses of Congress and submitted to the President"). And here, Congress omitted generic robbery altogether and made the "violent felony" clause at issue require "physical force." See *supra*, at 88, 90–91, 97.

[2] In fact, the case in which this Court ruled that its decision striking down the residual clause applied retroactively on collateral review centered on a Florida robbery conviction under Fla. Stat. §812.13(1). See *Welch* v. *United States*, 578 U. S. 120, 124–125 (2016). The Eleventh Circuit, reviewing the defendant's ACCA enhancement on direct appeal, had ruled that Florida robbery (including when, under previous law, it could be accomplished merely "by sudden snatching") qualified as an ACCA predicate under the residual clause without deciding whether it also qualified under the elements clause. See *United States* v. *Welch*, 683 F. 3d 1304, 1310–1314 (2012). Other Circuits likewise ruled, in the years before the clause's demise, that other state robbery statutes qualified under the residual clause. See, *e. g.*, *United States* v. *Mitchell*, 743 F. 3d 1054, 1062–1063 (CA6 2014) (collecting cases).

statute. Congress deleted the word "robbery," kept the word "burglary," supplemented burglary with the catchall residual clause that still captured many robberies outside the elements clause, and used the phrase "physical force" in the elements clause to define a type of "violent felony," which *Johnson* tells us requires more force than the term's common-law meaning denotes. See 559 U. S., at 138–143, 145. Statutory history cannot get the majority past both the text and the force of *stare decisis* here.

C

That leaves the majority with only the practical consequences that it asserts would follow if this Court were to hold that Florida robbery does not qualify under the ACCA's elements clause. See *ante*, at 81. While looking to how an interpretation of a federal statute would affect the applicability of related state statutes can be a useful approach in these cases, see, *e. g.*, *Castleman*, 572 U. S., at 167, the results that follow from a proper reading of *Johnson* are not nearly as incongruous as the majority suggests.

To begin, take the majority's assertion "that many States' robbery statutes would not qualify as ACCA predicates," *ante*, at 81, if the Court were to apply *Johnson* as it was written. The accuracy of this statement is far less certain than the majority's opinion lets on. While Stokeling and the Government come close to agreeing that at least 31 States' robbery statutes do have an overcoming-resistance requirement, see *ante*, at 80–81, that number is not conclusive because neither Stokeling nor the Government has offered an accounting of how many of those States allow minimal force to satisfy that requirement, as Florida does. Because robbery laws vary from State to State, and because even similarly worded statutes may be construed differently by different States' courts, some of those 31 States may well require more force than Florida does. See, *e. g.*, *United States* v. *Doctor*, 842 F. 3d 306, 312 (CA4 2016) (ruling that "there is

no indication that South Carolina robbery by violence"—a statute cited by the Government here—"can be committed with minimal actual force"); see also *Gonzales* v. *Duenas-Alvarez*, 549 U. S. 183, 193 (2007) (explaining that the categorical approach "requires a realistic probability, not a theoretical possibility, that the State would apply its statute to conduct that falls outside the generic definition of a crime").[3]

Furthermore, even if it is true "that many States' robbery statutes would not qualify as ACCA predicates" under a faithful reading of *Johnson*, see *ante*, at 81, that outcome would stem just as much (if not more) from the death of the residual clause as from a decision in this case. As discussed above, various state robbery statutes qualified under that expansive clause for nearly 20 years, until vagueness problems led this Court to strike the clause down as unconstitutional. See *supra*, at 99–100, and n. 2; see also *Johnson* v. *United States*, 576 U. S. 591. The fall of that clause would therefore be an independent cause of any drop in qualifying predicates, regardless of what this Court decides today. (A drop in robbery statutes qualifying as ACCA predicates could also, of course, be traceable to Congress' decision not to continue enumerating robbery when it

[3] The majority is able to suggest that following *Johnson* would beget a larger practical effect because it frames the question presented more broadly than is warranted. The majority avers that "[t]his case requires us to decide whether a robbery offense that has as an element the use of force sufficient to overcome a victim's resistance necessitates the use of 'physical force' within the meaning of the [ACCA]." *Ante*, at 75. But this case hinges on the fact that the Florida courts have ruled that the amount of resistance offered—and therefore the amount of force necessary to overcome it—is irrelevant. See *supra*, at 91–92. In other words, this case presents only the narrower question whether a robbery offense that has as an element the use of force sufficient to overcome a victim's resistance—even if that resistance is minimal—necessitates the use of "physical force" within the meaning of the ACCA. See also Brief for Petitioner i. If a state robbery statute's overcoming-resistance requirement were pegged under state law to more than minimal resistance, this would be a different case.

enacted the ACCA in the first place.) In short, the majority, fearful for the camel, errs in blaming the most recent straw.[4]

Separately, even if a number of simple robbery statutes were to cease qualifying as ACCA predicates, that does not mean—as the majority implies, see *ante*, at 80–81—that the same fate necessarily would befall most or even many aggravated-robbery statutes. The majority offers the single example of Florida aggravated robbery, noting that "Florida requires the same element of 'force' for both armed robbery and basic robbery." *Ante*, at 81. But while the majority accurately describes Florida law, there is scant reason to believe that a great many other States' statutes would be similarly affected, because the effect that hewing to *Johnson* would have on Florida aggravated robbery stems from the idiosyncrasy that Florida aggravated robbery requires neither displaying a weapon nor threatening or inflicting bodily injury.[5] The result for Florida aggravated robbery therefore sheds little light on what would happen to other aggravated-

[4] The majority's doubling down on *Johnson*'s "capable of causing physical pain or injury" language, see *ante*, at 84, suggests nostalgia for the residual clause (which reads: "otherwise involves conduct that presents a serious potential risk of physical injury to another," 18 U. S. C. § 924(e)(2)(B)). Congress could, at any time, re-enumerate robbery (and any other crimes it might have intended the residual clause to cover) if it so chose. The majority's decision today, meanwhile—with its endorsement of the mere "potentiality" of injury, *ante*, at 84—risks sowing confusion in the lower courts for years to come.

[5] Specifically, hewing to a proper reading of *Johnson* would also affect Florida's aggravated-robbery statute because the crime's only element involving force is the one that it shares with Florida simple robbery. See Fla. Stat. § 812.13(1). In Florida, robbery becomes aggravated if the defendant "carrie[s]" a weapon, § 812.13(2), but that means that the crime sweeps in offenders who never brandished, used, or otherwise intimated that they were armed, see, *e. g.*, *State* v. *Burris*, 875 So. 2d 408, 413 (Fla. 2004), and therefore prevents the crime from necessarily involving the "threatened use of physical force," 18 U. S. C. § 924(e)(2)(B)(i). See also Tr. of Oral Arg. 4 (explaining this point).

robbery statutes, the vast majority of which do (and did at the time of the ACCA's enactment) appear to provide for convictions on such grounds—and whose validity as ACCA predicates would not necessarily turn on the question the Court faces today.[6] The majority mistakes one anomalous result for a reason not to apply *Johnson* as it was written.

[6] See, *e. g.*, Ala. Code § 13A–8–41(a)(2) (2015); Alaska Stat. §§ 11.41.500(a)(2)–(3) (2016); Ariz. Rev. Stat. Ann. § 13–1904(A)(2) (2018); Ark. Code Ann. §§ 5–12–103(a)(2)–(3) (2013); Cal. Penal Code Ann. §§ 12022.53, 12022.7 (West 2018 Cum. Supp.); Colo. Rev. Stat. Ann. § 18–4–302(1)(b) (2018); Conn. Gen. Stat. §§ 53a–134(a)(1), (3) (2017); Del. Code Ann., Tit. 11, §§ 832(a)(1)–(3) (2015); Ga. Code Ann. § 16–8–41(a) (2018); Haw. Rev. Stat. §§ 708–840(1)(a), (b)(ii) (2014); Ill. Comp. Stat., ch. 720, §§ 5/18–1(b)(1), 5/18–2(a)(3)–(4) (2018 Cum. Supp.); Ind. Code § 35–42–5–1 (2018 Cum. Supp.); Kan. Stat. Ann. § 21–5420(b)(2) (Supp. 2017); Ky. Rev. Stat. Ann. §§ 515.020(1)(a), (c) (Lexis 2014); La. Rev. Stat. Ann. §§ 14:64.1(A), 64.3, 64.4(A)(1) (West 2016); Me. Rev. Stat. Ann., Tit. 17–A, § 651(1)(D) (2018 Cum. Supp.); Md. Crim. Law Code Ann. § 3–403(a)(2) (2012); Mich. Comp. Laws Ann. § 750.529 (West 2004); Minn. Stat. § 609.245(2) (2018); Miss. Code Ann. § 97–3–79 (2014); Mo. Rev. Stat. §§ 570.023(1)(1), (3)–(4) (2016); Neb. Rev. Stat. §§ 28–324, 28–1205 (2015); N. H. Rev. Stat. Ann. § 636:1(III)(b) (2016); N. Y. Penal Law Ann. §§ 160.10(2)(a)–(b), 160.15(1), (3)–(4) (West 2015); N. D. Cent. Code Ann. §§ 12.1–22–01(1)–(2) (2012); Ohio Rev. Code Ann. §§ 2911.01(A)(1), (3) (Lexis 2014); Okla. Stat. Ann., Tit. 21, §§ 797(1)–(3), 801 (2015); Ore. Rev. Stat. §§ 164.405(1)(a), 164.415(1)(b)–(c) (2017); 18 Pa. Cons. Stat. §§ 3701(a)(1)(i)–(ii), (iv) (2015); R. I. Gen. Laws § 11–39–1(a) (2002); S. D. Codified Laws § 22–30–6 (2017); Tenn. Code Ann. §§ 39–13–402(a), 39–13–403(a) (2011); Tex. Penal Code Ann. § 29.03(a) (West 2011); Utah Code §§ 76–6–302(1)(a)–(b) (2017); Vt. Stat. Ann., Tit. 13, § 608(c) (2009); Va. Code Ann. §§ 18.2–53.1, 18.2–58 (2014); Wash. Rev. Code §§ 9A.56.200 (1)(a)(ii)–(iii) (2015); W. Va. Code Ann. § 61–2–12(a) (Lexis 2014); Wis. Stat. § 943.32(2) (2005); Wyo. Stat. Ann. § 6–2–401(c) (2017); see also Reply Brief 22–23; App. to Reply Brief 9a–18a (listing 29 States with aggravated-robbery statutes that could have qualified at the time of the ACCA's enactment because of a weapon-using, weapon-displaying, or weapon-representing element; an additional 10 States, excluding duplicates, that could have potentially qualified at that time because of a physical-injury element; and an additional 15 States, some duplicative, with potentially qualifying statutes that have been enacted since).

IV

This Court's decision in *Johnson* tells us that when Congress wrote the words "physical force" in the context of a statute targeting "violent felon[ies]," it eschewed the common-law meaning of those words and instead required a higher degree of force. See 559 U. S., at 138–143, 145. *Johnson* resolves this case. Florida law requires no more than minimal force to commit Florida robbery, and Florida law therefore defines that crime more broadly than Congress defined the elements clause.

The crime that most people think of when they think of "robbery" is a serious one. That is all the more reason, however, that this Court should not allow a dilution of the term in state law to drive the expansion of a federal statute targeted at violent recidivists. Florida law applies the label "robbery" to crimes that are, at most, a half-notch above garden-variety pickpocketing or shoplifting. The Court today does no service to Congress' purposes or our own precedent in deeming such crimes to be "violent felonies"—and thus predicates for a 15-year mandatory-minimum sentence in federal prison.

I respectfully dissent.

Syllabus

NEW PRIME INC. *v.* OLIVEIRA

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 17–340. Argued October 3, 2018—Decided January 15, 2019

Petitioner New Prime Inc. is an interstate trucking company, and respondent Dominic Oliveira is one of its drivers. Mr. Oliveira works under an operating agreement that calls him an independent contractor and contains a mandatory arbitration provision. When Mr. Oliveira filed a class action alleging that New Prime denies its drivers lawful wages, New Prime asked the court to invoke its statutory authority under the Federal Arbitration Act to compel arbitration. Mr. Oliveira countered that the court lacked authority because § 1 of the Act excepts from coverage disputes involving "contracts of employment" of certain transportation workers. New Prime insisted that any question regarding § 1's applicability belonged to the arbitrator alone to resolve, or, assuming the court could address the question, that "contracts of employment" referred only to contracts that establish an employer-employee relationship and not to contracts with independent contractors. The District Court and First Circuit agreed with Mr. Oliveira.

Held:

1. A court should determine whether a § 1 exclusion applies before ordering arbitration. A court's authority to compel arbitration under the Act does not extend to all private contracts, no matter how emphatically they may express a preference for arbitration. Instead, antecedent statutory provisions limit the scope of a court's §§ 3 and 4 powers to stay litigation and compel arbitration "accord[ing to] the terms" of the parties' agreement. Section 2 provides that the Act applies only when the agreement is set forth as "a written provision in any maritime transaction or a contract evidencing a transaction involving commerce." And § 1 helps define § 2's terms, warning, as relevant here, that "nothing" in the Act "shall apply" to "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." For a court to invoke its statutory authority under §§ 3 and 4, it must first know if the parties' agreement is excluded from the Act's coverage by the terms of §§ 1 and 2. This sequencing is significant. See, *e. g.*, *Bernhardt* v. *Polygraphic Co. of America*, 350 U. S. 198, 201–202. New Prime notes that the parties' contract contains a "delegation clause," giving the arbitrator authority to decide threshold questions of arbitrability, and that the "severability principle" requires that both sides take all their disputes to arbitration. But a delegation

clause is merely a specialized type of arbitration agreement and is enforceable under §§ 3 and 4 only if it appears in a contract consistent with § 2 that does not trigger § 1's exception. And, the Act's severability principle applies only if the parties' arbitration agreement appears in a contract that falls within the field §§ 1 and 2 describe. Pp. 110–112.

2. Because the Act's term "contract of employment" refers to any agreement to perform work, Mr. Oliveira's agreement with New Prime falls within § 1's exception. Pp. 112–121.

(a) "[I]t's a 'fundamental canon of statutory construction' that words generally should be 'interpreted as taking their ordinary . . . meaning . . . at the time Congress enacted the statute.' " *Wisconsin Central Ltd.* v. *United States*, 585 U. S. 274, 284 (quoting *Perrin* v. *United States*, 444 U. S. 37, 42). After all, if judges could freely invest old statutory terms with new meanings, this Court would risk amending legislation outside the "single, finely wrought and exhaustively considered, procedure" the Constitution commands. *INS* v. *Chadha*, 462 U. S. 919, 951. The Court would risk, too, upsetting reliance interests by subjecting people today to different rules than they enjoyed when the statute was passed. At the time of the Act's adoption in 1925, the phrase "contract of employment" was not a term of art, and dictionaries tended to treat "employment" more or less as a synonym for "work." Contemporaneous legal authorities provide no evidence that a "contract of employment" necessarily signaled a formal employer-employee relationship. Evidence that Congress used the term "contracts of employment" broadly can be found in its choice of the neighboring term "workers," a term that easily embraces independent contractors. Pp. 113–116.

(b) New Prime argues that by 1925, the words "employee" and "independent contractor" had already assumed distinct meanings. But while the words "employee" and "employment" may share a common root and intertwined history, they also developed at different times and in at least some different ways. The evidence remains that, as dominantly understood in 1925, a "contract of employment" did not necessarily imply the existence of an employer-employee relationship. New Prime's argument that early 20th-century courts sometimes used the phrase "contracts of employment" to describe what are recognized today as agreements between employers and employees does nothing to negate the possibility that the term also embraced agreements by independent contractors to perform work. And its effort to explain away the statute's suggestive use of the term "worker" by noting that the neighboring terms "seamen" and "railroad employees" included only employees in 1925 rests on a precarious premise. The evidence suggests that even "seamen" and "railroad employees" could be independent contractors at the time the Arbitration Act passed. Left to appeal to the Act's policy, New Prime suggests that this Court order arbitration to

abide Congress' effort to counteract judicial hostility to arbitration and establish a favorable federal policy toward arbitration agreements. Courts, however, are not free to pave over bumpy statutory texts in the name of more expeditiously advancing a policy goal. Rather, the Court should respect "the limits up to which Congress was prepared" to go when adopting the Arbitration Act. *United States* v. *Sisson*, 399 U. S. 267, 298. This Court also declines to address New Prime's suggestion that it order arbitration anyway under its inherent authority to stay litigation in favor of an alternative dispute resolution mechanism of the parties' choosing. Pp. 116–121.

857 F. 3d 7, affirmed.

GORSUCH, J., delivered the opinion of the Court, in which all other Members joined, except KAVANAUGH, J., who took no part in the consideration or decision of the case. GINSBURG, J., filed a concurring opinion, *post*, p. 121.

Theodore J. Boutrous, Jr., argued the cause for petitioner. With him on the briefs were *Jason C. Schwartz*, *Joshua S. Lipshutz*, and *Amanda C. Machin*.

Jennifer Bennett argued the cause for respondent. With her on the brief were *Leah M. Nicholls*, *Andrew Schmidt*, and *Hillary Schwab*.*

---

*Briefs of *amici curiae* urging reversal were filed for American Trucking Associations, Inc., by *Richard Pianka*; for the Cato Institute by *Andrew M. Grossman*, *John B. Lewis*, *Dustin M. Dow*, and *Ilya Shapiro*; for the Chamber of Commerce of the United States of America et al. by *Andrew J. Pincus*, *Archis A. Parasharami*, *Daniel E. Jones*, and *Warren Postman*; for the Customized Logistics and Delivery Association by *Robert G. Hulteng*; and for the New England Legal Foundation by *Benjamin G. Robbins* and *Martin J. Newhouse*.

Briefs of *amici curiae* urging affirmance were filed for the Commonwealth of Massachusetts et al. by *Maura Healey*, Attorney General of Massachusetts, and *Karla E. Zarbo*, Assistant Attorney General, and by the Attorneys General for their respective jurisdictions as follows: *Xavier Becerra* of California, *George Jepsen* of Connecticut, *Karl A. Racine* of the District of Columbia, *Lisa Madigan* of Illinois, *Brian E. Frosh* of Maryland, *Lori Swanson* of Minnesota, *Gurbir S. Grewal* of New Jersey, *Barbara D. Underwood* of New York, *Josh Stein* of North Carolina, *Ellen F. Rosenblum* of Oregon, *Josh Shapiro* of Pennsylvania, *Thomas J. Donovan, Jr.*, of Vermont, *Mark R. Herring* of Virginia, and *Robert W. Ferguson* of Washington; for the American Association for Justice by *Gerson*

JUSTICE GORSUCH delivered the opinion of the Court.

The Federal Arbitration Act requires courts to enforce private arbitration agreements. But like most laws, this one bears its qualifications. Among other things, § 1 says that "nothing herein" may be used to compel arbitration in disputes involving the "contracts of employment" of certain transportation workers. 9 U. S. C. § 1. And that qualification has sparked these questions: When a contract delegates questions of arbitrability to an arbitrator, must a court leave disputes over the application of § 1's exception for the arbitrator to resolve? And does the term "contracts of employment" refer only to contracts between employers and employees, or does it also reach contracts with independent contractors? Because courts across the country have disagreed on the answers to these questions, we took this case to resolve them.

I

New Prime is an interstate trucking company and Dominic Oliveira works as one of its drivers. But, at least on paper, Mr. Oliveira isn't an employee; the parties' contracts label him an independent contractor. Those agreements also instruct that any disputes arising out of the parties' relationship should be resolved by an arbitrator—even disputes over the scope of the arbitrator's authority.

H. Smoger, *Elise Sanguinetti*, and *Jeffrey R. White*; for the Constitutional Accountability Center by *Elizabeth B. Wydra*, *Brianne J. Gorod*, and *Brian R. Frazelle*; for Employment Law Scholars by *Anna P. Prakash* and *John G. Albanese*; for Historians by *Sachin S. Pandya* and *Richard Frankel*; for the International Brotherhood of Teamsters et al. by *Catherine K. Ruckelshaus*; for Public Citizen, Inc., by *Scott L. Nelson* and *Allison M. Zieve*; for Statutory Construction Scholars by *Peter Romer-Friedman*, *Jahan Sagafi*, and *Nantiya Ruan*; for Sen. Sheldon Whitehouse by *Mr. Whitehouse*, *pro se*; and for Steve Viscelli et al. by *D. Michael Dale*, *Craig J. Ackermann*, and *Sam Vahedi*.

Paul D. Cullen, Sr., and *Paul D. Cullen, Jr.*, filed a brief for the Owner-Operator Independent Drivers Association, Inc., as *amicus curiae*.

Eventually, of course, a dispute did arise. In a class-action lawsuit in federal court, Mr. Oliveira argued that New Prime denies its drivers lawful wages. The company may call its drivers independent contractors. But, Mr. Oliveira alleged, in reality New Prime treats them as employees and fails to pay the statutorily due minimum wage. In response to Mr. Oliveira's complaint, New Prime asked the court to invoke its statutory authority under the Act and compel arbitration according to the terms found in the parties' agreements.

That request led to more than a little litigation of its own. Even when the parties' contracts mandate arbitration, Mr. Oliveira observed, the Act doesn't *always* authorize a court to enter an order compelling it. In particular, § 1 carves out from the Act's coverage "contracts of employment of . . . workers engaged in foreign or interstate commerce." And at least for purposes of this collateral dispute, Mr. Oliveira submitted, it doesn't matter whether you view him as an employee or an independent contractor. Either way, his agreement to drive trucks for New Prime qualifies as a "contrac[t] of employment of [a] worke[r] engaged in . . . interstate commerce." Accordingly, Mr. Oliveira argued, the Act supplied the district court with no authority to compel arbitration in this case.

Naturally, New Prime disagreed. Given the extraordinary breadth of the parties' arbitration agreement, the company insisted that any question about § 1's application belonged for the arbitrator alone to resolve. Alternatively and assuming a court could address the question, New Prime contended that the term "contracts of employment" refers only to contracts that establish an employer-employee relationship. And because Mr. Oliveira is, in fact as well as form, an independent contractor, the company argued, § 1's exception doesn't apply; the rest of the statute does; and the district court was (once again) required to order arbitration.

Ultimately, the district court and the First Circuit sided with Mr. Oliveira. 857 F. 3d 7 (2017). The court of appeals

held, first, that in disputes like this a court should resolve whether the parties' contract falls within the Act's ambit or § 1's exclusion before invoking the statute's authority to order arbitration. Second, the court of appeals held that § 1's exclusion of certain "contracts of employment" removes from the Act's coverage not only employer-employee contracts but also contracts involving independent contractors. So under any account of the parties' agreement in this case, the court held, it lacked authority under the Act to order arbitration. We granted certiorari. 583 U. S. 1155 (2018).

II

In approaching the first question for ourselves, one thing becomes clear immediately. While a court's authority under the Arbitration Act to compel arbitration may be considerable, it isn't unconditional. If two parties agree to arbitrate future disputes between them and one side later seeks to evade the deal, §§ 3 and 4 of the Act often require a court to stay litigation and compel arbitration "accord[ing to] the terms" of the parties' agreement. But this authority doesn't extend to *all* private contracts, no matter how emphatically they may express a preference for arbitration.

Instead, antecedent statutory provisions limit the scope of the court's powers under §§ 3 and 4. Section 2 provides that the Act applies only when the parties' agreement to arbitrate is set forth as a "written provision in any maritime transaction or a contract evidencing a transaction involving commerce." And § 1 helps define § 2's terms. Most relevant for our purposes, § 1 warns that "nothing" in the Act "shall apply" to "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." Why this very particular qualification? By the time it adopted the Arbitration Act in 1925, Congress had already prescribed alternative employment dispute resolution regimes for many transportation workers. And it seems Congress "did not wish to unsettle" those arrangements in favor of whatever arbitration procedures the parties' private contracts might happen to contem-

plate. *Circuit City Stores, Inc.* v. *Adams*, 532 U. S. 105, 121 (2001).

Given the statute's terms and sequencing, we agree with the First Circuit that a court should decide for itself whether § 1's "contracts of employment" exclusion applies before ordering arbitration. After all, to invoke its statutory powers under §§ 3 and 4 to stay litigation and compel arbitration according to a contract's terms, a court must first know whether the contract itself falls within or beyond the boundaries of §§ 1 and 2. The parties' private agreement may be crystal clear and require arbitration of every question under the sun, but that does not necessarily mean the Act authorizes a court to stay litigation and send the parties to an arbitral forum.

Nothing in our holding on this score should come as a surprise. We've long stressed the significance of the statute's sequencing. In *Bernhardt* v. *Polygraphic Co. of America*, 350 U. S. 198, 201–202 (1956), we recognized that "Sections 1, 2, and 3 [and 4] are integral parts of a whole. . . . [Sections] 1 and 2 define the field in which Congress was legislating," and §§ 3 and 4 apply only to contracts covered by those provisions. In *Circuit City*, we acknowledged that "Section 1 exempts from the [Act] contracts of employment of transportation workers." 532 U. S., at 119. And in *Southland Corp.* v. *Keating*, 465 U. S. 1, 10–11, and n. 5 (1984), we noted that "the enforceability of arbitration provisions" under §§ 3 and 4 depends on whether those provisions are "part of a written maritime contract or a contract 'evidencing a transaction involving commerce'" under § 2—which, in turn, depends on the application of § 1's exception for certain "contracts of employment."

To be sure, New Prime resists this straightforward understanding. The company argues that an arbitrator should resolve any dispute over § 1's application because of the "delegation clause" in the parties' contract and what is sometimes called the "severability principle." A delegation clause gives an arbitrator authority to decide even the initial

question whether the parties' dispute is subject to arbitration. *Rent-A-Center, West, Inc.* v. *Jackson*, 561 U. S. 63, 68–69 (2010). And under the severability principle, we treat a challenge to the validity of an arbitration agreement (or a delegation clause) separately from a challenge to the validity of the entire contract in which it appears. *Id.*, at 70–71. Unless a party specifically challenges the validity of the agreement to arbitrate, both sides may be required to take all their disputes—including disputes about the validity of their broader contract—to arbitration. *Ibid.* Applying these principles to this case, New Prime notes that Mr. Oliveira has not specifically challenged the parties' delegation clause and submits that any controversy should therefore proceed only and immediately before an arbitrator.

But all this overlooks the necessarily antecedent statutory inquiry we've just discussed. A delegation clause is merely a specialized type of arbitration agreement, and the Act "operates on this additional arbitration agreement just as it does on any other." *Id.*, at 70. So a court may use §§3 and 4 to enforce a delegation clause only if the clause appears in a "written provision in . . . a contract evidencing a transaction involving commerce" consistent with §2. And only if the contract in which the clause appears doesn't trigger §1's "contracts of employment" exception. In exactly the same way, the Act's severability principle applies only if the parties' arbitration agreement appears in a contract that falls within the field §§1 and 2 describe. We acknowledged as much some time ago, explaining that, before invoking the severability principle, a court should "determin[e] that the contract in question is within the coverage of the Arbitration Act." *Prima Paint Corp.* v. *Flood & Conklin Mfg. Co.*, 388 U. S. 395, 402 (1967).

III

That takes us to the second question: Did the First Circuit correctly resolve the merits of the §1 challenge in this case? Recall that §1 excludes from the Act's compass "contracts of employment of . . . workers engaged in . . . interstate com-

erce." Happily, everyone before us agrees that Mr. Oliveira qualifies as a "worke[r] engaged in . . . interstate commerce." For purposes of this appeal, too, Mr. Oliveira is willing to assume (but not grant) that his contracts with New Prime establish only an independent contractor relationship.

With that, the disputed question comes into clear view: What does the term "contracts of employment" mean? If it refers only to contracts that reflect an employer-employee relationship, then § 1's exception is irrelevant and a court is free to order arbitration, just as New Prime urges. But if the term *also* encompasses contracts that require an independent contractor to perform work, then the exception takes hold and a court lacks authority under the Act to order arbitration, exactly as Mr. Oliveira argues.

A

In taking up this question, we bear an important caution in mind. "[I]t's a 'fundamental canon of statutory construction' that words generally should be 'interpreted as taking their ordinary . . . meaning . . . at the time Congress enacted the statute.'" *Wisconsin Central Ltd.* v. *United States*, 585 U. S. 274, 284 (2018) (quoting *Perrin* v. *United States*, 444 U. S. 37, 42 (1979)). See also *Sandifer* v. *United States Steel Corp.*, 571 U. S. 220, 227 (2014). After all, if judges could freely invest old statutory terms with new meanings, we would risk amending legislation outside the "single, finely wrought and exhaustively considered, procedure" the Constitution commands. *INS* v. *Chadha*, 462 U. S. 919, 951 (1983). We would risk, too, upsetting reliance interests in the settled meaning of a statute. Cf. 2B N. Singer & J. Singer, Sutherland on Statutes and Statutory Construction § 56A:3 (rev. 7th ed. 2012). Of course, statutes may sometimes refer to an external source of law and fairly warn readers that they must abide that external source of law, later amendments and modifications included. *Id.*, § 51:8 (discussing the reference canon). But nothing like that exists here. Nor has anyone suggested any other appropriate reason that might allow us to depart from the original meaning of the statute at hand.

That, we think, holds the key to the case. To many lawyerly ears today, the term "contracts of employment" might call to mind only agreements between employers and employees (or what the common law sometimes called masters and servants). Suggestively, at least one recently published law dictionary defines the word "employment" to mean "[t]he relationship between master and servant." Black's Law Dictionary 641 (10th ed. 2014). But this modern intuition isn't easily squared with evidence of the term's meaning at the time of the Act's adoption in 1925. At that time, a "contract of employment" usually meant nothing more than an agreement to perform work. As a result, most people then would have understood § 1 to exclude not only agreements between employers and employees but also agreements that require independent contractors to perform work.

What's the evidence to support this conclusion? It turns out that in 1925 the term "contract of employment" wasn't defined in any of the (many) popular or legal dictionaries the parties cite to us. And surely that's a first hint the phrase wasn't then a term of art bearing some specialized meaning. It turns out, too, that the dictionaries of the era consistently afforded the word "employment" a broad construction, broader than may be often found in dictionaries today. Back then, dictionaries tended to treat "employment" more or less as a synonym for "work." Nor did they distinguish between different kinds of work or workers: All work was treated as employment, whether or not the common law criteria for a master-servant relationship happened to be satisfied.[1]

---

[1] See, *e. g.*, 3 H. Bradley, A New English Dictionary on Historical Principles 130 (J. Murray ed. 1891) (defining "employment" as, among other things, "[t]he action or process of employing; the state of being employed. The service (of a person). That on which (one) is employed; business; occupation; a special errand or commission. A person's regular occupation or business; a trade or profession"); 3 The Century Dictionary and Cyclopedia 1904

What the dictionaries suggest, legal authorities confirm. This Court's early 20th-century cases used the phrase "contract of employment" to describe work agreements involving independent contractors.[2] Many state court cases did the same.[3] So did a variety of federal statutes.[4] And state

---

(1914) (defining "employment" as "[w]ork or business of any kind"); Webster's New International Dictionary 718 (1st ed. 1909) (listing "[w]ork" as a synonym for "employment"); Webster's Collegiate Dictionary 329 (3d ed. 1916) (same); Black's Law Dictionary 422 (2d ed. 1910) ("an engagement or rendering services" for oneself or another); 3 Oxford English Dictionary 130 (1933) ("[t]hat on which (one) is employed; business; occupation; a special errand or commission").

[2] See, *e. g.*, *Watkins* v. *Sedberry*, 261 U. S. 571, 575 (1923) (agreement between trustee and attorney to recover bankrupt's property); *Owen* v. *Dudley & Michener*, 217 U. S. 488, 494 (1910) (agreement between Indian tribe and attorneys to pursue claims).

[3] See, *e. g.*, *Lindsay* v. *McCaslin (Two Cases)*, 123 Me. 197, 200, 122 A. 412, 413 (1923) ("When the contract of employment has been reduced to writing, the question whether the person employed was an independent contractor or merely a servant is determined by the court as a matter of law"); *Tankersley* v. *Webster*, 116 Okla. 208, 210, 243 P. 745, 747 (1925) ("[T]he contract of employment between Tankersley and Casey was admitted in evidence without objections, and we think conclusively shows that Casey was an independent contractor"); *Waldron* v. *Garland Pocahontas Coal Co.*, 89 W. Va. 426, 427, 109 S. E. 729 (1921) (syllabus) ("Whether a person performing work for another is an independent contractor depends upon a consideration of the contract of employment, the nature of the business, the circumstances under which the contract was made and the work was done"); see also App. to Brief for Respondent 1a–12a (citing additional examples).

[4] See, *e. g.*, Act of Mar. 19, 1924, ch. 70, § 5, 43 Stat. 28 (limiting payment of fees to attorneys "employed" by the Cherokee Tribe to litigate claims against the United States to those "stipulated in the contract of employment"); Act of June 7, 1924, ch. 300, §§ 2, 5, 43 Stat. 537–538 (providing same for Choctaw and Chickasaw Tribes); Act of Aug. 24, 1921, ch. 89, 42 Stat. 192 (providing that no funds may be used to compensate "any attorney, regular or special, for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation unless the contract of employment has been approved by the Attorney General of the United

statutes too.[5] We see here no evidence that a "contract of employment" necessarily signaled a formal employer-employee or master-servant relationship.

More confirmation yet comes from a neighboring term in the statutory text. Recall that the Act excludes from its coverage "contracts of employment of . . . any . . . class of *workers* engaged in foreign or interstate commerce." 9 U. S. C. § 1 (emphasis added). Notice Congress didn't use the word "employees" or "servants," the natural choices if the term "contracts of employment" addressed them alone. Instead, Congress spoke of "workers," a term that everyone agrees easily embraces independent contractors. That word choice may not mean everything, but it does supply further evidence still that Congress used the term "contracts of employment" in a broad sense to capture any contract for the performance of *work* by *workers*.

B

What does New Prime have to say about the case building against it? Mainly, it seeks to shift the debate from the term "contracts of employment" to the word "employee." Today, the company emphasizes, the law often distinguishes between employees and independent contractors. Employees are generally understood as those who work "in the service of another person (the employer) under an express or implied contract of hire, under which the employer has the

---

States"). See also App. to Brief for Respondent 13a (citing additional examples).

[5] See, *e. g.*, Act of Mar. 10, 1909, ch. 70, § 1, 1909 Kan. Sess. Laws p. 121 (referring to "contracts of employment of auditors, accountants, engineers, attorneys, counselors and architects for any special purpose"); Act of Mar. 4, 1909, ch. 4, § 4, 1909 Okla. Sess. Laws p. 118 ("Should the amount of the attorney's fee be agreed upon in the contract of employment, then such attorney's lien and cause of action against such adverse party shall be for the amount so agreed upon"); Act of Mar. 4, 1924, ch. 88, § 1, 1924 Va. Acts ch. 91 (allowing extension of "contracts of employment" between the State and contractors with respect to the labor of prisoners); App. to Brief for Respondent 14a–15a (citing additional examples).

right to control the details of work performance." Black's Law Dictionary, at 639. Meanwhile, independent contractors are sometimes described as those "entrusted to undertake a specific project but who [are] left free to do the assigned work and to choose the method for accomplishing it." *Id.*, at 888. New Prime argues that, by 1925, the words "employee" and "independent contractor" had already assumed these distinct meanings.[6] And given that, the company contends, the phrase "contracts of *employment*" should be understood to refer only to relationships between *employers and employees*.

Unsurprisingly, Mr. Oliveira disagrees. He replies that, while the term "employment" dates back many centuries, the word "employee" only made its first appearance in English in the 1800s. See Oxford English Dictionary (3d ed., Mar. 2014), www.oed.com/view/Entry/61374 (all Internet materials as last visited Jan. 9, 2019). At that time, the word from which it derived, "employ," simply meant to "apply (a thing) to some definite purpose." 3 H. Bradley, A New English Dictionary on Historical Principles 129 (J. Murray ed. 1891). And even in 1910, Black's Law Dictionary reported that the term "employee" had only "'become somewhat naturalized in our language.'" Black's Law Dictionary 421 (2d ed. 1910).

Still, the parties do share some common ground. They agree that the word "employee" eventually came into wide circulation and came to denote those who work for a wage at the direction of another. They agree, too, that all this came to pass in part because the word "employee" didn't suffer from the same "historical baggage" of the older common law term "servant," and because it proved useful when drafting legislation to regulate burgeoning industries and their labor forces in the early 20th century.[7] The parties even agree

---

[6] See, *e. g.*, *Atlantic Transp. Co.* v. *Coneys*, 82 F. 177, 178 (CA2 1897); *Nyback* v. *Champagne Lumber Co.*, 109 F. 732, 741 (CA7 1901).

[7] See Carlson, Why the Law Still Can't Tell an Employee When It Sees One and How It Ought To Stop Trying, 22 Berkeley J. Emp. & Lab. L. 295, 309 (2001) (discussing the "historical baggage" of the term "servant");

that the development of the term "employee" may have come to influence and narrow our understanding of the word "employment" in comparatively recent years and may be why today it might signify to some a "relationship between master and servant."[8]

But if the parties' extended etymological debate persuades us of anything, it is that care is called for. The words "employee" and "employment" may share a common root and an intertwined history. But they also developed at different times and in at least some different ways. The only question in this case concerns the meaning of the term "contracts of *employment*" in 1925. And, whatever the word "employee" may have meant at that time, and however it may have later influenced the meaning of "employment," the evidence before us remains that, as dominantly understood in 1925, a contract of *employment* did not necessarily imply the existence of an employer-employee or master-servant relationship.

When New Prime finally turns its attention to the term in dispute, it directs us to *Coppage* v. *Kansas*, 236 U. S. 1, 13 (1915). There and in other cases like it, New Prime notes,

---

Broden, General Rules Determining the Employment Relationship Under Social Security Laws: After Twenty Years an Unsolved Problem, 33 Temp. L. Q. 307, 327 (1960) (describing use of the term "employer-employee," in contradistinction to "master-servant," in the Social Security laws). Legislators searched to find a term that fully encompassed the broad protections they sought to provide and considered an "assortment of vague and uncertain terms," including "'servant,' . . . 'employee,' . . . 'workman,' 'laborer,' 'wage earner,' 'operative,' or 'hireling.'" Carlson, 22 Berkeley J. Emp. & Lab. L., at 308. Eventually "'employee' prevailed, if only by default, and the choice was confirmed by the next wave of protective legislation—workers' compensation laws in the early years of the Twentieth Century." *Id.*, at 309.

[8] Black's Law Dictionary 641 (10th ed. 2014); see also P. Durkin, Release Notes: The Changes in Empathy, Employ, and Empire (Mar. 13, 2014), online at https://public.oed.com/blog/march-2014-update-release-notes/ ("Over time" the meaning of several employ-related words have "reflect[ed] changes in the world of work" and their meaning "shows an increasingly marked narrowing").

courts sometimes used the phrase "contracts of employment" to describe what today we'd recognize as agreements between employers and employees. But this proves little. No one doubts that employer-employee agreements to perform work qualified as "contracts of employment" in 1925—and documenting that fact does nothing to negate the possibility that "contracts of employment" *also* embraced agreements by independent contractors to perform work. Coming a bit closer to the mark, New Prime eventually cites a handful of early 20th-century legal materials that seem to use the term "contracts of employment" to refer *exclusively* to employer-employee agreements.[9] But from the record amassed before us, these authorities appear to represent at most the vanguard, not the main body, of contemporaneous usage.

New Prime's effort to explain away the statute's suggestive use of the term "worker" proves no more compelling. The company reminds us that the statute excludes "contracts of employment" for "seamen" and "railroad employees" as well as other transportation workers. And because "seamen" and "railroad employees" included *only* employees in 1925, the company reasons, we should understand "any other class of workers engaged in . . . interstate commerce" to bear a similar construction. But this argument rests on a precarious premise. At the time of the Act's passage, shipboard surgeons who tended injured sailors were considered "seamen" though they likely served in an independent contractor capacity.[10] Even the term "railroad employees" may have

[9] See, *e. g.*, 1 T. Conyngton, Business Law: A Working Manual of Every-day Law 302–303 (2d ed. 1920); *Newland* v. *Bear*, 218 App. Div. 308, 309, 218 N. Y. S. 81, 81–82 (1926); *Anderson* v. *State Indus. Acc. Comm'n*, 107 Ore. 304, 311–312, 215 P. 582, 583, 585 (1923); N. Dosker, Manual of Compensation Law: State and Federal 8 (1917).

[10] See, *e. g.*, *The Sea Lark*, 14 F. 2d 201 (WD Wash. 1926); *The Buena Ventura*, 243 F. 797, 799 (SDNY 1916); *Holt* v. *Cummings*, 102 Pa. 212, 215 (1883); *Allan* v. *State S. S. Co.*, 132 N. Y. 91, 99, 30 N. E. 482, 485 (1892) ("The work which the physician does after the vessel starts on the voyage is his and not the ship owner's").

swept more broadly at the time of the Act's passage than might seem obvious today. In 1922, for example, the Railroad Labor Board interpreted the word "employee" in the Transportation Act of 1920 to refer to anyone "engaged in the customary work directly contributory to the operation of the railroads."[11] And the Erdman Act, a statute enacted to address disruptive railroad strikes at the end of the 19th century, seems to evince an equally broad understanding of "railroad employees."[12]

Unable to squeeze more from the statute's text, New Prime is left to appeal to its policy. This Court has said that Congress adopted the Arbitration Act in an effort to counteract judicial hostility to arbitration and establish "a liberal federal policy favoring arbitration agreements." *Moses H. Cone Memorial Hospital* v. *Mercury Constr. Corp.*, 460 U. S. 1, 24 (1983). To abide that policy, New Prime suggests, we must order arbitration according to the terms of the parties' agreement. But often and by design it is "hard-fought compromis[e]," not cold logic, that supplies the solvent needed for a bill to survive the legislative process. *Board of Governors, FRS* v. *Dimension Financial Corp.*, 474 U. S. 361, 374 (1986). If courts felt free to pave over bumpy statutory texts in the name of more expeditiously advancing a policy goal, we would risk failing to "tak[e] . . . account of" legislative compromises essential to a law's passage and, in that way, thwart rather than honor "the effectu-

---

[11] Transportation Act of 1920, §§ 304, 307, 41 Stat. 456; *Railway Employees' Dept., A. F. of L.* v. *Indiana Harbor Belt R. Co.*, Decision No. 982, 3 R. L. B. 332, 337 (1922).

[12] The Act provided for arbitration between railroads and workers, and defined "employees" as "all persons actually engaged in any capacity in train operation or train service of any description." Act of June 1, 1898, ch. 370, 30 Stat. 424. The Act also specified that the railroads would "be responsible for the acts and defaults of such employees in the same manner and to the same extent as if . . . said employees [were] directly employed by it." *Id.*, at 425. See Dempsey, Transportation: A Legal History, 30 Transp. L. J. 235, 273 (2003).

ation of congressional intent." *Ibid.* By respecting the qualifications of § 1 today, we "respect the limits up to which Congress was prepared" to go when adopting the Arbitration Act. *United States* v. *Sisson*, 399 U. S. 267, 298 (1970).

Finally, and stretching in a different direction entirely, New Prime invites us to look beyond the Act. Even if the statute doesn't supply judges with the power to compel arbitration in this case, the company says we should order it anyway because courts always enjoy the inherent authority to stay litigation in favor of an alternative dispute resolution mechanism of the parties' choosing. That, though, is an argument we decline to tangle with. The courts below did not address it, and we granted certiorari only to resolve existing confusion about the application of the Arbitration Act, not to explore other potential avenues for reaching a destination it does not.

*

When Congress enacted the Arbitration Act in 1925, the term "contracts of employment" referred to agreements to perform work. No less than those who came before him, Mr. Oliveira is entitled to the benefit of that same understanding today. Accordingly, his agreement with New Prime falls within § 1's exception, the court of appeals was correct that it lacked authority under the Act to order arbitration, and the judgment is

Affirmed.

JUSTICE KAVANAUGH took no part in the consideration or decision of this case.

JUSTICE GINSBURG, concurring.

"[W]ords generally should be 'interpreted as taking their ordinary . . . meaning . . . at the time Congress enacted the statute.'" *Ante*, at 113 (quoting *Wisconsin Central Ltd.* v. *United States*, 585 U. S. 274, 284 (2018)). The Court so reaffirms, and I agree. Looking to the period of enactment to

gauge statutory meaning ordinarily fosters fidelity to the "regime . . . Congress established." *MCI Telecommunications Corp.* v. *American Telephone & Telegraph Co.*, 512 U. S. 218, 234 (1994).

Congress, however, may design legislation to govern changing times and circumstances. See, *e. g.*, *Kimble* v. *Marvel Entertainment, LLC*, 576 U. S. 446, 461 (2015) ("Congress . . . intended [the Sherman Antitrust Act's] reference to 'restraint of trade' to have 'changing content,' and authorized courts to oversee the term's 'dynamic potential.'" (quoting *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 485 U. S. 717, 731–732 (1988))); *SEC* v. *Zandford*, 535 U. S. 813, 819 (2002) (In enacting the Securities Exchange Act, "Congress sought to substitute a philosophy of full disclosure for the philosophy of *caveat emptor* . . . . Consequently, . . . the statute should be construed not technically and restrictively, but flexibly to effectuate its remedial purposes." (internal quotation marks and paragraph break omitted)); *H. J. Inc.* v. *Northwestern Bell Telephone Co.*, 492 U. S. 229, 243 (1989) ("The limits of the relationship and continuity concepts that combine to define a [Racketeer Influenced and Corrupt Organizations Act] pattern . . . cannot be fixed in advance with such clarity that it will always be apparent whether in a particular case a 'pattern of racketeering activity' exists. The development of these concepts must await future cases . . . ."). As these illustrations suggest, sometimes, "[w]ords in statutes can enlarge or contract their scope as other changes, in law or in the world, require their application to new instances or make old applications anachronistic." *West* v. *Gibson*, 527 U. S. 212, 218 (1999).

Syllabus

HELSINN HEALTHCARE S. A. *v.* TEVA PHARMACEUTICALS USA, INC., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 17–1229. Argued December 4, 2018—Decided January 22, 2019

Petitioner Helsinn Healthcare S. A. makes a treatment for chemotherapy-induced nausea and vomiting using the chemical palonosetron. While Helsinn was developing its palonosetron product, it entered into two agreements with another company granting that company the right to distribute, promote, market, and sell a 0.25 mg dose of palonosetron in the United States. The agreements required that the company keep confidential any proprietary information received under the agreements. Nearly two years later, in January 2003, Helsinn filed a provisional patent application covering a 0.25 mg dose of palonosetron. Over the next 10 years, Helsinn filed four patent applications that claimed priority to the January 2003 date. Relevant here, Helsinn filed its fourth patent application in 2013. That patent (the '219 patent) covers a fixed dose of 0.25 mg of palonosetron in a 5 ml solution and is covered by the Leahy-Smith America Invents Act (AIA).

In 2011, respondents Teva Pharmaceutical Industries, Ltd., and Teva Pharmaceuticals USA, Inc. (collectively Teva), sought approval to market a generic 0.25 mg palonosetron product. Helsinn sued Teva for infringing its patents, including the '219 patent. Teva countered that the '219 patent was invalid under the "on sale" provision of the AIA—which precludes a person from obtaining a patent on an invention that was "in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention," 35 U. S. C. § 102(a)(1)—because the 0.25 mg dose was "on sale" more than one year before Helsinn filed the provisional patent application in 2003. The District Court held that the AIA's "on sale" provision did not apply because the public disclosure of the agreements did not disclose the 0.25 mg dose. The Federal Circuit reversed, holding that the sale was publicly disclosed, regardless of whether the details of the invention were publicly disclosed in the terms of the sale agreements.

Held: A commercial sale to a third party who is required to keep the invention confidential may place the invention "on sale" under § 102(a). The patent statute in force immediately before the AIA included an on-sale bar. This Court's precedent interpreting that provision supports

the view that a sale or offer of sale need not make an invention available to the public to constitute invalidating prior art. See, *e. g.*, *Pfaff* v. *Wells Electronics, Inc.*, 525 U. S. 55, 67. The Federal Circuit had made explicit what was implicit in this Court's pre-AIA precedent, holding that "secret sales" could invalidate a patent. *Special Devices, Inc.* v. *OEA, Inc.*, 270 F. 3d 1353, 1357. Given this settled pre-AIA precedent, the Court applies the presumption that when Congress reenacted the same "on sale" language in the AIA, it adopted the earlier judicial construction of that phrase. The addition of the catchall phrase "or otherwise available to the public" is not enough of a change for the Court to conclude that Congress intended to alter the meaning of "on sale." *Paroline* v. *United States*, 572 U. S. 434, and *Federal Maritime Comm'n* v. *Seatrain Lines, Inc.*, 411 U. S. 726, distinguished. Pp. 129–132.

855 F. 3d 1356, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.

Kannon K. Shanmugam argued the cause for petitioner. With him on the briefs were *David M. Krinsky*, *Amy Mason Saharia*, *A. Joshua Podoll*, *Joseph M. O'Malley, Jr.*, *Eric W. Dittmann*, *Isaac S. Ashkenazi*, *Stephen B. Kinnaird*, and *Charles M. Lizza*.

Deputy Solicitor General Stewart argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Francisco*, *Acting Assistant Attorney General Readler*, *Jenny C. Ellickson*, *Mark R. Freeman*, and *Megan Barbero*.

William M. Jay argued the cause for respondents. With him on the brief were *Steffen N. Johnson*, *Andrew C. Nichols*, *David J. Zimmer*, and *Joshua J. Bone*.*

---

*Briefs of *amici curiae* urging reversal were filed for the American Intellectual Property Law Association by *Lynn C. Tyler*; for the Bar Association of the District of Columbia by *William F. Lawrence* and *Jonathan A. Herstoff*; for the Biotechnology Innovation Organization by *Alice O. Martin*, *Daniel P. Albers*, *Hans Sauer*, *Melissa A. Brand*, and *Brian P. Barrett*; for the Intellectual Property Law Association of Chicago by *Charles W. Shifley*, *Robert H. Resis*, and *Donald W. Rupert*; for the Massachusetts Biotechnology Council by *Sophie F. Wang* and *Eric J. Marandett*; for Pharmaceutical Research and Manufacturers of America by *Scott*

JUSTICE THOMAS delivered the opinion of the Court.

The Leahy-Smith America Invents Act (AIA) bars a person from receiving a patent on an invention that was "in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention." 35 U. S. C. § 102(a)(1). This case requires us to decide whether the sale of an invention to a third party who is contractually obligated to keep the invention confidential places the invention "on sale" within the meaning of § 102(a).

More than 20 years ago, this Court determined that an invention was "on sale" within the meaning of an earlier version of § 102(a) when it was "the subject of a commercial offer for sale" and "ready for patenting." *Pfaff* v. *Wells Electronics, Inc.*, 525 U. S. 55, 67 (1998). We did not further require that the sale make the details of the invention available to the public. In light of this earlier construction, we deter-

E. Kamholz, *James C. Stansel*, and *David E. Korn*; and for US Inventor, Inc., by *Kathleen B. Carr*, *David G. Conlin*, and *Joseph D. Rutkowski*.

Briefs of *amici curiae* urging affirmance were filed for the Association for Accessible Medicines by *Matthew S. Hellman*, *Adam G. Unikowsky*, and *Jeffrey K. Francer*; for IEEE–USA by *Maura K. Moran*; for Intel Corporation by *Boris Bershteyn* and *John Neukom*; for the R Street Institute et al. by *Charles Duan*; for SPCM S. A. et al. by *James W. Dabney*, *Khue V. Hoang*, *Richard M. Koehl*, *Emma L. Baratta*, *Stefanie M. Lopatkin*, and *John F. Duffy*; for Congresswoman Zoe Lofgren by *John C. O'Quinn* and *Megan M. Wold*; and for 45 Intellectual Property Professors by *Mark A. Lemley*, and *Michael A. Carrier*, *Ralph D. Clifford*, *Samuel F. Ernst*, *Shubha Ghosh*, *Brian J. Love*, *Joseph Scott Miller*, *Michael S. Mireles*, *Michael Risch*, *Sharon Sandeen*, *Joshua Sarnoff*, *Jason Schultz*, *Ted Sichelman*, and *Katherine J. Strandburg*, all *pro se*.

Briefs of *amici curiae* were filed for the Austin Intellectual Property Law Association by *Stephen R. Dartt* and *Lei Sun*; for the Houston Intellectual Property Law Association by *Iftikhar Ahmed* and *L. Lee Eubanks IV*; for the Intellectual Property Owners Association by *Robert M. Isackson*, *Matthew Kaufman*, *Lauren Sabol*, and *Mark W. Lauroesch*; for the Naples Roundtable by *Matthew J. Dowd* and *Andrew Baluch*; and for Congressman Lamar Smith by *Robert A. Armitage*.

mine that the reenactment of the phrase "on sale" in the AIA did not alter this meaning. Accordingly, a commercial sale to a third party who is required to keep the invention confidential may place the invention "on sale" under the AIA.

I

Petitioner Helsinn Healthcare S. A. (Helsinn) is a Swiss pharmaceutical company that makes Aloxi, a drug that treats chemotherapy-induced nausea and vomiting. Helsinn acquired the right to develop palonosetron, the active ingredient in Aloxi, in 1998. In early 2000, it submitted protocols for Phase III clinical trials to the Food and Drug Administration (FDA), proposing to study a 0.25 mg and a 0.75 mg dose of palonosetron. In September 2000, Helsinn announced that it was beginning Phase III clinical trials and was seeking marketing partners for its palonosetron product.

Helsinn found its marketing partner in MGI Pharma, Inc. (MGI), a Minnesota pharmaceutical company that markets and distributes drugs in the United States. Helsinn and MGI entered into two agreements: a license agreement and a supply and purchase agreement. The license agreement granted MGI the right to distribute, promote, market, and sell the 0.25 mg and 0.75 mg doses of palonosetron in the United States. In return, MGI agreed to make upfront payments to Helsinn and to pay future royalties on distribution of those doses. Under the supply and purchase agreement, MGI agreed to purchase exclusively from Helsinn any palonosetron product approved by the FDA. Helsinn in turn agreed to supply MGI however much of the approved doses it required. Both agreements included dosage information and required MGI to keep confidential any proprietary information received under the agreements.

Helsinn and MGI announced the agreements in a joint press release, and MGI also reported the agreements in its Form 8–K filing with the Securities and Exchange Commission. Although the 8–K filing included redacted copies of

the agreements, neither the 8–K filing nor the press releases disclosed the specific dosage formulations covered by the agreements.

On January 30, 2003, nearly two years after Helsinn and MGI entered into the agreements, Helsinn filed a provisional patent application covering the 0.25 mg and 0.75 mg doses of palonosetron. Over the next 10 years, Helsinn filed four patent applications that claimed priority to the January 30, 2003, date of the provisional application. Helsinn filed its fourth patent application—the one relevant here—in May 2013, and it issued as U. S. Patent No. 8,598,219 ('219 patent). The '219 patent covers a fixed dose of 0.25 mg of palonosetron in a 5 ml solution. By virtue of its effective date, the '219 patent is governed by the AIA. See § 101(i).

Respondents Teva Pharmaceutical Industries, Ltd., and Teva Pharmaceuticals USA, Inc. (Teva), are, respectively, an Israeli company that manufactures generic drugs and its American affiliate. In 2011, Teva sought approval from the FDA to market a generic 0.25 mg palonosetron product. Helsinn then sued Teva for infringing its patents, including the '219 patent. In defense, Teva asserted that the '219 patent was invalid because the 0.25 mg dose was "on sale" more than one year before Helsinn filed the provisional patent application covering that dose in January 2003.

The AIA precludes a person from obtaining a patent on an invention that was "on sale" before the effective filing date of the patent application:

> "A person shall be entitled to a patent unless . . . the claimed invention was patented, described in a printed publication, or in public use, *on sale*, or otherwise available to the public before the effective filing date of the claimed invention." 35 U. S. C. § 102(a)(1) (emphasis added).

See also § 102(b)(1) (exception for certain disclosures made within a year before the effective filing date). Disclosures

described in § 102(a)(1) are often referred to as "prior art."

The patent statute in effect before the passage of the AIA included a similar proscription, known as the "on-sale bar":

> "A person shall be entitled to a patent unless—
> "(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
> "(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or *on sale* in this country, more than one year prior to the date of the application for patent in the United States." 35 U. S. C. §§ 102(a)–(b) (2006 ed.) (emphasis added).

The District Court determined that the "on sale" provision did not apply. It concluded that, under the AIA, an invention is not "on sale" unless the sale or offer in question made the claimed invention available to the public. *Helsinn Healthcare S. A.* v. *Dr. Reddy's Labs. Ltd.*, 387 F. Supp. 3d 439, 505 (NJ 2016). Because the companies' public disclosure of the agreements between Helsinn and MGI did not disclose the 0.25 mg dose, the court determined that the invention was not "on sale" before the critical date. *Id.*, at 504–505.

The Federal Circuit reversed. 855 F. 3d 1356, 1360 (2017). It concluded that "if the existence of the sale is public, the details of the invention need not be publicly disclosed in the terms of sale" to fall within the AIA's on-sale bar. *Id.*, at 1371. Because the sale between Helsinn and MGI was publicly disclosed, it held that the on-sale bar applied. *Id.*, at 1364, 1371.

We granted certiorari to determine whether, under the AIA, an inventor's sale of an invention to a third party who is obligated to keep the invention confidential qualifies as prior art for purposes of determining the patentability of the

invention. 585 U. S. 1015 (2018). We conclude that such a sale can qualify as prior art.

II

A

The United States Constitution authorizes Congress "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Art. 1, §8, cl. 8. Under this grant of authority, Congress has crafted a federal patent system that encourages "the creation and disclosure of new, useful, and nonobvious advances in technology and design" by granting inventors "the exclusive right to practice the invention for a period of years." *Bonito Boats, Inc.* v. *Thunder Craft Boats, Inc.*, 489 U. S. 141, 151 (1989).

To further the goal of "motivating innovation and enlightenment" while also "avoiding monopolies that unnecessarily stifle competition," *Pfaff*, 525 U. S., at 63, Congress has imposed several conditions on the "limited opportunity to obtain a property right in an idea," *Bonito Boats*, *supra*, at 149. One such condition is the on-sale bar, which reflects Congress' "reluctance to allow an inventor to remove existing knowledge from public use" by obtaining a patent covering that knowledge. *Pfaff*, *supra*, at 64; see also *Pennock* v. *Dialogue*, 2 Pet. 1, 19 (1829) (explaining that "it would materially retard the progress of science and the useful arts" to allow an inventor to "sell his invention publicly" and later "take out a patent" and "exclude the public from any farther use than what should be derived under it").

Every patent statute since 1836 has included an on-sale bar. *Pfaff*, *supra*, at 65. The patent statute in force immediately before the AIA prevented a person from receiving a patent if, "more than one year prior to the date of the application for patent in the United States," "the invention was . . . on sale" in the United States. 35 U. S. C. §102(b) (2006

ed.). The AIA, as relevant here, retained the on-sale bar and added the catchall phrase "or otherwise available to the public." § 102(a)(1) (2012 ed.) ("A person shall be entitled to a patent unless" the "claimed invention was . . . in public use, on sale, or otherwise available to the public . . ."). We must decide whether these changes altered the meaning of the "on sale" bar. We hold that they did not.

B

Congress enacted the AIA in 2011 against the backdrop of a substantial body of law interpreting § 102's on-sale bar. In 1998, we determined that the pre-AIA on-sale bar applies "when two conditions are satisfied" more than a year before an inventor files a patent application. *Pfaff*, 525 U. S., at 67. "First, the product must be the subject of a commercial offer for sale." *Ibid.* "Second, the invention must be ready for patenting," which we explained could be shown by proof of "reduction to practice" or "drawings or other descriptions of the invention that were sufficiently specific to enable a person skilled in the art to practice the invention." *Id.*, at 67–68.

Although this Court has never addressed the precise question presented in this case, our precedents suggest that a sale or offer of sale need not make an invention available to the public. For instance, we held in *Pfaff* that an offer for sale could cause an inventor to lose the right to patent, without regard to whether the offer discloses each detail of the invention. *E.g.*, *id.*, at 67. Other cases focus on whether the invention had been sold, not whether the details of the invention had been made available to the public or whether the sale itself had been publicly disclosed. *E.g.*, *Consolidated Fruit-Jar Co.* v. *Wright*, 94 U. S. 92, 94 (1877) ("[A] single instance of sale or of use by the patentee may, under the circumstances, be fatal to the patent . . ."); cf. *Smith & Griggs Mfg. Co.* v. *Sprague*, 123 U. S. 249, 257 (1887) ("A single sale to another . . . would certainly have defeated his

right to a patent . . .”); *Elizabeth* v. *Pavement Co.*, 97 U. S. 126, 136 (1878) (“It is not a public knowledge of his invention that precludes the inventor from obtaining a patent for it, but a public use or sale of it”).

The Federal Circuit—which has “exclusive jurisdiction” over patent appeals, 28 U. S. C. § 1295(a)—has made explicit what was implicit in our precedents. It has long held that “secret sales” can invalidate a patent. *E.g.*, *Special Devices, Inc.* v. *OEA, Inc.*, 270 F. 3d 1353, 1357 (2001) (invalidating patent claims based on “sales for the purpose of the commercial stockpiling of an invention” that “took place in secret”); *Woodland Trust* v. *Flowertree Nursery, Inc.*, 148 F. 3d 1368, 1370 (1998) (“Thus an inventor’s own prior commercial use, albeit kept secret, may constitute a public use or sale under § 102(b), barring him from obtaining a patent”).

In light of this settled pre-AIA precedent on the meaning of “on sale,” we presume that when Congress reenacted the same language in the AIA, it adopted the earlier judicial construction of that phrase. See *Shapiro* v. *United States*, 335 U. S. 1, 16 (1948) (“In adopting the language used in the earlier act, Congress ‘must be considered to have adopted also the construction given by this Court to such language, and made it a part of the enactment’ ”). The new § 102 retained the exact language used in its predecessor statute (“on sale”) and, as relevant here, added only a new catchall clause (“or otherwise available to the public”). As *amicus* United States noted at oral argument, if “on sale” had a settled meaning before the AIA was adopted, then adding the phrase “or otherwise available to the public” to the statute “would be a fairly oblique way of attempting to overturn” that “settled body of law.” Tr. of Oral Arg. 27–28. The addition of “or otherwise available to the public” is simply not enough of a change for us to conclude that Congress intended to alter the meaning of the reenacted term “on sale.” Cf. *Holder* v. *Martinez Gutierrez*, 566 U. S. 583, 593 (2012) (determining that a reenacted provision did not ratify an earlier

judicial construction where the provision omitted the word on which the prior judicial constructions were based).

Helsinn disagrees, arguing that our construction reads "otherwise" out of the statute. Citing *Paroline* v. *United States*, 572 U. S. 434 (2014), and *Federal Maritime Comm'n* v. *Seatrain Lines, Inc.*, 411 U. S. 726 (1973), Helsinn contends that the associated-words canon requires us to read "otherwise available to the public" to limit the preceding terms in § 102 to disclosures that make the claimed invention available to the public.

As an initial matter, neither of the cited decisions addresses the reenactment of terms that had acquired a well-settled judicial interpretation. And Helsinn's argument places too much weight on § 102's catchall phrase. Like other such phrases, "otherwise available to the public" captures material that does not fit neatly into the statute's enumerated categories but is nevertheless meant to be covered. Given that the phrase "on sale" had acquired a well-settled meaning when the AIA was enacted, we decline to read the addition of a broad catchall phrase to upset that body of precedent.

III

Helsinn does not ask us to revisit our pre-AIA interpretation of the on-sale bar. Nor does it dispute the Federal Circuit's determination that the invention claimed in the '219 patent was "on sale" within the meaning of the pre-AIA statute. Because we determine that Congress did not alter the meaning of "on sale" when it enacted the AIA, we hold that an inventor's sale of an invention to a third party who is obligated to keep the invention confidential can qualify as prior art under § 102(a). We therefore affirm the judgment of the Federal Circuit.

It is so ordered.

REPORTER'S NOTE

The next page is purposely numbered 801. The numbers between 132 and 801 were intentionally omitted, in order to make it possible to publish the orders with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

ORDERS FOR OCTOBER 1, 2018, THROUGH
FEBRUARY 15, 2019

OCTOBER 1, 2018

Affirmed for Absence of Quorum

No. 17–8910. JOHNSON *v.* UNITED STATES. C. A. Fed. Cir. Because the Court lacks a quorum, 28 U. S. C. § 1, and since the only qualified Justice is of the opinion that the case cannot be heard and determined at the next Term of the Court, the judgment is affirmed under 28 U. S. C. § 2109, which provides that under these circumstances "the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court." THE CHIEF JUSTICE, JUSTICE THOMAS, JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE ALITO, JUSTICE SOTOMAYOR, and JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 708 Fed. Appx. 689.

Certiorari Granted—Vacated and Remanded

No. 17–8035. MANNERS *v.* UNITED STATES. C. A. 6th Cir.

No. 17–8244. RICHITELLI *v.* UNITED STATES. C. A. 11th Cir.;

No. 17–8349. PARRALES-GUZMAN *v.* UNITED STATES. C. A. 5th Cir. Reported below: 700 Fed. Appx. 382;

No. 17–8655. LUIS PINEDA *v.* SESSIONS, ATTORNEY GENERAL. C. A. 5th Cir. Reported below: 709 Fed. Appx. 315; and

No. 17–8876. BANNISTER *v.* UNITED STATES. C. A. 11th Cir. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Sessions* v. *Dimaya*, 584 U. S. 148 (2018).

No. 17–8523. BRILEY *v.* UNITED STATES;

No. 17–8608. PEMBROOK *v.* UNITED STATES; and

No. 17–9235. CALHOUN *v.* UNITED STATES. C. A. 6th Cir. Reported below: 876 F. 3d 812. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judg-

ment vacated, and cases remanded for further consideration in light of *Sessions* v. *Dimaya*, 584 U. S. 148 (2018).

No. 17–8526. WARD *v.* UNITED STATES. Ct. App. D. C. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Class* v. *United States*, 583 U. S. 174 (2018). Reported below: 160 A. 3d 1174.

No. 17–9248. DIEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Wilson* v. *Sellers*, 584 U. S. 122 (2018). Reported below: 717 Fed. Appx. 898.

No. 18–88. GRAMM *v.* DEERE & CO. C. A. Fed. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *SAS Institute Inc.* v. *Iancu*, 584 U. S. 357 (2018). Reported below: 711 Fed. Appx. 650.

Certiorari Dismissed

No. 17–8926. HARPER *v.* TEXAS ET AL. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 17–8958. HOLT *v.* BAKER ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 710 Fed. Appx. 422.

No. 17–8991. BURGESS *v.* ELLIOTT ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied,

and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 696 Fed. Appx. 125.

No. 17–9005. SHOVE *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9041. CIOTTA *v.* HOLLAND, WARDEN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9107. GRIGSBY *v.* UNITED STATES. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 715 Fed. Appx. 868.

No. 17–9110. GRAHAM *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9175. FLUTE *v.* UNITED STATES ET AL. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 723 Fed. Appx. 599.

No. 17–9193. HALL *v.* CHANDLER, WARDEN. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9239. BULLOCK *v.* UNITED STATES. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 17–9255. FIGUEROA *v.* RAMIREZ, WARDEN. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As

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*). Reported below: 710 Fed. Appx. 165.

No. 17–9262. MUA ET UX. *v.* CALIFORNIA CASUALTY INDEMNITY EXCHANGE ET AL. C. A. 4th Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9263. MUA ET UX. *v.* MARYLAND ET AL. C. A. 4th Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 700 Fed. Appx. 309.

No. 17–9264. MUA *v.* CALIFORNIA CASUALTY INDEMNITY EXCHANGE ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9265. MUA ET UX. *v.* CALIFORNIA CASUALTY INDEMNITY EXCHANGE. C. A. 4th Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9266. MUA *v.* CALIFORNIA CASUALTY INDEMNITY EXCHANGE ET AL. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9324. MCNAMARA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 17–9413. LEI KE *v.* FRY ET AL. Super. Ct. Pa. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 174 A. 3d 75.

No. 17–9446. ROGERS *v.* BEASLEY, WARDEN. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As

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*).

No. 17–9501. SMITH *v.* CLINE, WARDEN, ET AL. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 17–9530. FLUTE *v.* UNITED STATES ET AL. C. A. 10th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 723 Fed. Appx. 604.

No. 17–9538. HARPER *v.* CROW. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5002. GRAY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5017. SELDEN *v.* KOVACHEVICH, JUDGE, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, ET AL. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari before judgment dismissed. See this Court's Rule 39.8. As petitioner has repeat-

edly 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*).

No. 18–5030. WILLIAMS *v.* NORMAN, WARDEN. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5070. WILLIAMS *v.* MAYBERG, WARDEN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5101. REILLY *v.* DAVIS. Dist. Ct. App. Fla., 1st Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 240 So. 3d 642.

No. 18–5277. DAY *v.* OFFICE OF THE PRESIDENT. C. A. D. C. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 697 Fed. Appx. 17.

No. 18–5323. CALDWELL *v.* TEXAS. Ct. Crim. App. Tex. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5417. HARDY *v.* ADAMS ET AL. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5574. ACKER *v.* UNITED STATES ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal mat-

ters 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*).

No. 18–5631. Jacob *v.* Frakes, Director, Nebraska Department of Correctional Services. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5820. Evans *v.* Delaware. Sup. Ct. Del. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 184 A. 3d 843.

Miscellaneous Orders

No. 18M1. Father *v.* Maine Department of Health and Human Services et al.; and

No. 18M8. Jason K. *v.* Maine Department of Health and Human Services et al. Motions for leave to file petitions for writs of certiorari under seal granted.

No. 18M2. Atwood *v.* Ryan, Director, Arizona Department of Corrections, et al.;

No. 18M3. Wright *v.* Thomas Nelson Community College et al.;

No. 18M4. Wagner et al. *v.* United States Trustee et al.;

No. 18M10. Oduok *v.* Carnes et al.;

No. 18M11. Charles *v.* McCain, Warden;

No. 18M12. Cynthia R. *v.* Children's Aid Society;

No. 18M15. York *v.* Social Security Administration;

No. 18M18. Black *v.* Larimer County, Colorado;

No. 18M19. Jones *v.* Sedita et al.;

No. 18M24. Montoya *v.* Wells Fargo Bank, N. A.;

No. 18M26. Spight *v.* United States;

No. 18M27. Garrett *v.* Brennan, Postmaster General;
No. 18M28. Best *v.* Kimble, Warden;
No. 18M30. Phillips *v.* Phillips;
No. 18M31. Henson *v.* Griem;
No. 18M32. Fearing *v.* United States Trustee et al.;
No. 18M33. Chronister *v.* South Carolina et al.;
No. 18M36. Larson *v.* Wallace et al.;
No. 18M37. Carlos Ocasio *v.* Merit Systems Protection Board; and
No. 18M38. Howard *v.* United States. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M5. Stephens *v.* Alliant Techsystems Corp. et al.; and
No. 18M6. Brown *v.* Wellman et al. Motions to direct the Clerk to file petitions for writs of certiorari out of time under this Court's Rule 14.5 denied.

No. 18M7. Malnes *v.* City of Flagstaff, Arizona, et al.;
No. 18M13. Henderson *v.* VIP Taxi LLC et al.;
No. 18M29. Zapata *v.* PEO et al.; and
No. 18M35. Jossie *v.* CVS Pharmacy. Motions for leave to proceed as veterans denied.

No. 18M9. Rodriguez *v.* United States;
No. 18M16. Thelemaque *v.* United States;
No. 18M20. Murray *v.* Ryan, Director, Arizona Department of Corrections;
No. 18M21. Jones *v.* United States;
No. 18M22. Laschkewitsch *v.* ReliaStar Life Insurance Co.;
No. 18M23. M. E. D. *v.* New Jersey; and
No. 18M34. Medina *v.* United States. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 18M14. Aquino-Florenciani *v.* United States; and
No. 18M17. Sealed Appellee *v.* United States. Motions for leave to file petitions for writs of certiorari under seal with redacted copies for the public record granted.

No. 18M25. Moreno *v.* United States. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

JUSTICE GORSUCH took no part in the consideration or decision of this motion.

No. 16–1275. VIRGINIA URANIUM, INC., ET AL. *v.* WARREN ET AL. C. A. 4th Cir. [Certiorari granted, 584 U. S. 992.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–204. APPLE INC. *v.* PEPPER ET AL. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1003.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–773. CULBERTSON *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 11th Cir. [Certiorari granted, 584 U. S. 992.] Motion of the Solicitor General for divided argument granted.

No. 17–949. STURGEON *v.* FROST, ALASKA REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE, ET AL. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1002.] Motion of petitioner to dispense with printing joint appendix granted.

No. 17–961. FRANK ET AL. *v.* GAOS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. C. A. 9th Cir. [Certiorari granted, 584 U. S. 958.] Joint motion of respondents for divided argument granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of former Professor Roy A. Katriel for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 17–1011. JAM ET AL. *v.* INTERNATIONAL FINANCE CORP. C. A. D. C. Cir. [Certiorari granted, 584 U. S. 992.] Motion of petitioners to dispense with printing joint appendix granted. Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1042. BNSF RAILWAY CO. *v.* LOOS. C. A. 8th Cir. [Certiorari granted, 584 U. S. 976.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1175. POARCH BAND OF CREEK INDIANS ET AL. *v.* WILKES ET AL. Sup. Ct. Ala. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 17–1184. BIESTEK *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 6th Cir. [Certiorari granted, 585 U. S. 1015.] Motion of petitioner to dispense with printing joint appendix granted.

No. 17–1272. HENRY SCHEIN, INC., ET AL. *v.* ARCHER & WHITE SALES, INC. C. A. 5th Cir. [Certiorari granted, 585 U. S. 1015.] Motion of petitioners to file volume II of the joint appendix under seal granted.

No. 17–1498. ATLANTIC RICHFIELD CO. *v.* CHRISTIAN ET AL. Sup. Ct. Mont.;

No. 17–1678. HERNANDEZ ET AL. *v.* MESA. C. A. 5th Cir.;

No. 17–1686. RPX CORP. *v.* CHANBOND LLC. C. A. Fed. Cir.; and

No. 17–1712. THOLE ET AL. *v.* U. S. BANK N. A. ET AL. C. A. 8th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 17–1529. CLEARSTREAM BANKING S. A. *v.* PETERSON ET AL.;

No. 17–1530. BANCA UBAE, S. P. A. *v.* PETERSON ET AL.; and

No. 17–1534. BANK MARKAZI, AKA CENTRAL BANK OF IRAN *v.* PETERSON ET AL. C. A. 2d Cir. The Solicitor General is invited to file a brief in these cases expressing the views of the United States.

No. 17–8151. BUCKLEW *v.* PRECYTHE, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th Cir. [Certiorari granted, 584 U. S. 959.] Motion of petitioner to file volume III of the joint appendix under seal with redacted copy of transcript for public record granted.

No. 17–8555. ANDERSON *v.* VENTURE EXPRESS. C. A. 5th Cir.;

No. 17–8719. DE VERA *v.* UNITED AIRLINES, INC. C. A. 9th Cir.;

No. 17–9105. DEBEIKES *v.* HAWAIIAN AIRLINES, INC., ET AL. C. A. 9th Cir.;

No. 17–9226. GREEN *v.* HORRY COUNTY, SOUTH CAROLINA, ET AL. C. A. 4th Cir.;

No. 17–9295. JEANTY *v.* NEW YORK CITY DEPARTMENT OF FINANCE. C. A. 2d Cir.;

No. 17–9306. TRINH *v.* TRINH. Super. Ct. Pa.;
No. 17–9323. IN RE MICHAEL;
No. 18–5026. YATES *v.* WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT. C. A. 9th Cir.;
No. 18–5137. DANIEL *v.* BROOKLYN LAW SCHOOL. App. Div., Sup. Ct. N. Y., 2d Jud. Dept.;
No. 18–5537. OPENGEYM *v.* HEARTLAND EMPLOYMENT SERVICES, LLC. C. A. 6th Cir.;
No. 18–5670. CAMPISE *v.* NEW YORK COMMISSIONER OF LABOR. App. Div., Sup. Ct. N. Y., 3d Jud. Dept.;
No. 18–5683. IN RE BRITTON-HARR; and
No. 18–5786. THOMAS *v.* UNITED STATES. C. A. 7th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 22, 2018, 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.

No. 17–8689. GILLESPIE *v.* REVERSE MORTGAGE SOLUTIONS ET AL. Sup. Ct. Fla. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [585 U. S. 1013] denied.

No. 17–8794. IN RE SPENGLER. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [584 U. S. 1000] denied.

No. 17–1647. IN RE HENDERSON ET AL.;
No. 17–9023. IN RE KOSSIE;
No. 17–9366. IN RE MCCRARY;
No. 17–9384. IN RE JENKS;
No. 17–9468. IN RE YONAMINE;
No. 18–5128. IN RE FAIRCHILD-LITTLEFIELD;
No. 18–5176. IN RE EUGENE;
No. 18–5208. IN RE BARTUNEK;
No. 18–5472. IN RE HEDRICK;
No. 18–5492. IN RE COLSON;
No. 18–5577. IN RE BOYLEN;
No. 18–5580. IN RE KYE-EL;
No. 18–5603. IN RE KILMARTIN;
No. 18–5799. IN RE SMITHBACK; and
No. 18–5812. IN RE DECARO. Petitions for writs of habeas corpus denied.

No. 17–9269. IN RE RODGERS;
No. 18–5175. IN RE BROWN;
No. 18–5400. IN RE PENNINGTON-THURMAN; and
No. 18–5543. IN RE LEFFEBRE. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of habeas corpus dismissed. See this Court's Rule 39.8.

No. 17–9447. IN RE ROGERS; and
No. 17–9480. IN RE WOODS. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of habeas corpus dismissed. See this Court's Rule 39.8. As 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*).

No. 17–1570. IN RE BIERI;
No. 17–1710. IN RE GILGENBACH ET UX.;
No. 17–8710. IN RE ARMSTRONG;
No. 17–8777. IN RE LEE;
No. 17–8871. IN RE PAYNE;
No. 17–8981. IN RE RUIZ-RIVERA;
No. 17–9073. IN RE BEY;
No. 17–9290. IN RE REDDEN;
No. 17–9355. IN RE WARDLAW;
No. 17–9465. IN RE MCCREE;
No. 18–123. IN RE CITIZENS FOR FAIR REPRESENTATION ET AL.;
No. 18–140. IN RE BUNDY;
No. 18–5025. IN RE WARDLAW;
No. 18–5064. IN RE STOKES;
No. 18–5236. IN RE ESCO;
No. 18–5262. IN RE MCLAUGHLIN;
No. 18–5265. IN RE LEE;
No. 18–5409. IN RE RILEY;
No. 18–5449. IN RE SMITH; and
No. 18–5579. IN RE COLE. Petitions for writs of mandamus denied.

No. 17–9443. IN RE ROGERS. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5671. In re Simpson. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8.

No. 17–1556. In re McDonald;
No. 17–1561. In re Ellis et al.;
No. 17–1562. In re Stanley;
No. 17–1563. In re Ford;
No. 17–1614. In re Voter Verified, Inc.;
No. 17–1715. In re McNeil et al.;
No. 17–9240. In re Schneider;
No. 18–5740. In re Clark; and
No. 18–5785. In re Winkles. Petitions for writs of mandamus and/or prohibition denied.

No. 17–9201. In re Rose. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus and/or prohibition dismissed. See this Court's Rule 39.8.

No. 18–5020. In re Brown. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus and/or prohibition dismissed. See this Court's Rule 39.8. Justice Kagan took no part in the consideration or decision of this motion and this petition.

No. 17–1581. In re Coulter;
No. 17–8957. In re Gaitor; and
No. 18–5157. In re Luis Arevalo. Petitions for writs of prohibition denied.

Certiorari Denied

No. 17–1140. Stambler *v.* Mastercard International Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 702 Fed. Appx. 985.

No. 17–1198. Martins Beach 1, LLC, et al. *v.* Surfrider Foundation. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari

denied. Reported below: 14 Cal. App. 5th 238, 221 Cal. Rptr. 3d 382.

No. 17–1222. Multnomah County, Oregon *v.* Updike et al. C. A. 9th Cir. Certiorari denied. Reported below: 870 F. 3d 939.

No. 17–1252. B/E Aerospace, Inc. *v.* C&D Zodiac, Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 709 Fed. Appx. 687.

No. 17–1283. Atlanta Medical Center, Inc., fka Tenet Healthsystem GB, Inc., et al. *v.* Care Improvement Plus South Central Insurance Co. C. A. 11th Cir. Certiorari denied. Reported below: 875 F. 3d 584.

No. 17–1286. National Mining Assn. *v.* Zinke, Secretary of the Interior, et al.; and

No. 17–1290. American Exploration & Mining Assn. *v.* Zinke, Secretary of the Interior, et al. C. A. 9th Cir. Certiorari denied. Reported below: 877 F. 3d 845.

No. 17–1316. Sportswear, Inc., dba Prep Sportswear *v.* Savannah College of Art & Design, Inc. C. A. 11th Cir. Certiorari denied. Reported below: 872 F. 3d 1256.

No. 17–1320. Garvin *v.* New York. Ct. App. N. Y. Certiorari denied. Reported below: 30 N. Y. 3d 174, 88 N. E. 3d 319.

No. 17–1332. Jang *v.* Boston Scientific Corp. et al. C. A. Fed. Cir. Certiorari denied. Reported below: 872 F. 3d 1275.

No. 17–1335. Consolidation Coal Co. *v.* Director, Office of Workers' Compensation Programs, Department of Labor, et al. C. A. 10th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 819.

No. 17–1343. Davis *v.* Mississippi. Sup. Ct. Miss. Certiorari denied.

No. 17–1349. Johnson *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 874 F. 3d 571.

No. 17–1376. Norfolk Southern Railway Co. *v.* Parsons. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 161384, 88 N. E. 3d 45.

No. 17–1383. EMPIRE DISTRIBUTION INC. *v.* TWENTIETH CENTURY FOX TELEVISION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 875 F. 3d 1192.

No. 17–1384. DROPLETS, INC. *v.* IANCU, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 698 Fed. Appx. 612.

No. 17–1393. PAVAN ET AL. *v.* SMITH. Sup. Ct. Ark. Certiorari denied.

No. 17–1398. SWC, LLC, ET AL. *v.* HERR ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 865 F. 3d 351.

No. 17–1408. BRECKINRIDGE HEALTH, INC., ET AL. *v.* AZAR, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 6th Cir. Certiorari denied. Reported below: 869 F. 3d 422.

No. 17–1411. AKER BIOMARINE ANTARCTIC AS ET AL. *v.* NAM CHUONG HUYNH ET AL. Ct. App. Wash. Certiorari denied. Reported below: 199 Wash. App. 1005.

No. 17–1419. LUMMI TRIBE OF THE LUMMI RESERVATION ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 870 F. 3d 1313.

No. 17–1432. COUNTY OF AMADOR, CALIFORNIA *v.* DEPARTMENT OF THE INTERIOR ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 872 F. 3d 1012.

No. 17–1442. DIMOND RIGGING CO., LLC, DBA ABSOLUTE RIGGING AND MILLWRIGHTS *v.* ORDOS CITY HAWTAI AUTOBODY CO., LTD., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 695 Fed. Appx. 864.

No. 17–1453. COMMUNITY HEALTH SYSTEMS, INC., ET AL. *v.* NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 877 F. 3d 687.

No. 17–1456. KENNEDY *v.* SKADDEN ARPS SLATE MEAGHER & FLOM LLP ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 706 Fed. Appx. 94.

No. 17–1459. WORLD PROGRAMMING LTD. *v.* SAS INSTITUTE, INC. C. A. 4th Cir. Certiorari denied. Reported below: 874 F. 3d 370.

No. 17–1470. Five Star Senior Living Inc., fka Five Star Quality Care, Inc. *v.* Lefevre. C. A. 9th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 622.

No. 17–1472. Indiana *v.* Bowman et al. Ct. App. Ind. Certiorari denied. Reported below: 81 N. E. 3d 1127.

No. 17–1474. Nassar *v.* Nassar. C. A. 11th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 615.

No. 17–1476. City of Fort Worth, Texas, et al. *v.* Darden. C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 3d 722.

No. 17–1477. United States ex rel. Chase *v.* Chapters Health System, Inc., et al. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 783.

No. 17–1479. Gentry *v.* Thompson, Judge, Circuit Court of Tennessee, Sumner County. C. A. 6th Cir. Certiorari denied.

No. 17–1480. Xiu Jian Sun *v.* Pollak. C. A. 2d Cir. Certiorari denied.

No. 17–1485. Miranda-Mondragon *v.* Nautilus Insurance Co. C. A. 5th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 214.

No. 17–1486. Pinnavaria *v.* Trout Valley Assn. et al. App. Ct. Ill., 2d Dist. Certiorari denied.

No. 17–1490. Neidermeyer *v.* Caldwell. C. A. 9th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 485.

No. 17–1497. American Technical Ceramics Corp. *v.* Presidio Components, Inc.; and

No. 17–1649. Presidio Components, Inc. *v.* American Technical Ceramics Corp. C. A. Fed. Cir. Certiorari denied. Reported below: 875 F. 3d 1369.

No. 17–1503. Johnson *v.* Storix, Inc. C. A. 9th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 628.

No. 17–1505. Tavares *v.* Enterprise Rent-A-Car-Company of Rhode Island. C. A. 1st Cir. Certiorari denied.

No. 17–1507. ALPINE PCS, INC. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 878 F. 3d 1086.

No. 17–1508. MCCALL, AS ADMINISTRATOR OF THE ESTATE OF MCCALL *v.* MORANT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 594.

No. 17–1509. UNITED STATES EX REL. BARRICK *v.* PARKER-MIGLIORINI INTERNATIONAL, LLC, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 878 F. 3d 1224.

No. 17–1512. ZIMING SHEN *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 725 Fed. Appx. 7.

No. 17–1513. KEITHLY, EXECUTRIX OF THE ESTATE OF COOPER *v.* ROBERTS ET AL. Sup. Ct. Va. Certiorari denied.

No. 17–1514. LEE *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied.

No. 17–1515. TAYLOR *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 303 Ga. 57, 810 S. E. 2d 113.

No. 17–1516. EVANS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 876 F. 3d 375.

No. 17–1517. OLYMPIC STEWARDSHIP FOUNDATION ET AL. *v.* STATE OF WASHINGTON ENVIRONMENTAL AND LAND USE HEARINGS OFFICE ET AL. Ct. App. Wash. Certiorari denied. Reported below: 199 Wash. App. 668, 399 P. 3d 562.

No. 17–1518. XIU JIAN SUN *v.* ASIELLO ET AL. C. A. 2d Cir. Certiorari denied.

No. 17–1522. XIU JIAN SUN *v.* SUPREME COURT OF NEW YORK, QUEENS COUNTY. C. A. 2d Cir. Certiorari denied.

No. 17–1528. ROSS *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 17–1533. LEED HR, LLC, ET AL. *v.* MITCHELL. Ct. App. Ky. Certiorari denied.

No. 17–1535. ASRARI *v.* DEPARTMENT OF HOMELAND SECURITY. C. A. Fed. Cir. Certiorari denied. Reported below: 710 Fed. Appx. 894.

No. 17–1536. MMA Consultants 1, Inc. *v.* Republic of Peru. C. A. 2d Cir. Certiorari denied. Reported below: 719 Fed. Appx. 47.

No. 17–1537. Morrison *v.* Quest Diagnostics Inc. et al. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 350.

No. 17–1538. Coulter *v.* Forrest et al. Super. Ct. Pa. Certiorari denied. Reported below: 175 A. 3d 361.

No. 17–1541. Sobel *v.* City of Rutland, Vermont. Sup. Ct. Vt. Certiorari denied.

No. 17–1543. Olivar et al. *v.* Public Service Employee Credit Union Long Term Disability Plan et al. Sup. Ct. Colo. Certiorari denied. Reported below: 428 P. 3d 208.

No. 17–1546. Stankevich *v.* Kaplan et al. C. A. D. C. Cir. Certiorari denied. Reported below: 707 Fed. Appx. 717.

No. 17–1547. Sauers *v.* Township of Lower Southampton, Pennsylvania. C. A. 3d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 255.

No. 17–1548. Pennsylvania Higher Education Assistance, dba FedLoan Servicing *v.* Silver. C. A. 9th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 369.

No. 17–1549. Morsy E. *v.* Commissioner, Connecticut Department of Children and Families. Sup. Ct. Conn. Certiorari denied. Reported below: 327 Conn. 506, 175 A. 3d 21.

No. 17–1550. Failon *v.* Compass Chemical International, LLC. C. A. 4th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 141.

No. 17–1551. Stratton *v.* Virginia, dba Clemens, et al. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 302.

No. 17–1552. Bruce *v.* Potomac Electric Power Co. Ct. App. D. C. Certiorari denied. Reported below: 162 A. 3d 177.

No. 17–1553. De La Cruz *v.* Kailer et al. Sup. Ct. Tex. Certiorari denied.

No. 17–1554. BERNSTEIN *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 693 Fed. Appx. 848.

No. 17–1555. ORNSTEIN *v.* BANK OF AMERICA, N. A., ET AL. Ct. App. Ariz. Certiorari denied.

No. 17–1557. TORTORA *v.* ALVAREZ. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–1560. VIGGERS *v.* VIGGERS. Ct. App. Mich. Certiorari denied.

No. 17–1564. CORNELIO *v.* CONNECTICUT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 708 Fed. Appx. 41.

No. 17–1565. GERAGOS & GERAGOS, APC *v.* FIRST SOLAR, INC. C. A. 9th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 410.

No. 17–1569. CALLWOOD, AS ADMINISTRATRIX OF THE ESTATE OF ILLIDGE *v.* JONES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 552.

No. 17–1571. MARRANCA *v.* LOYTSKER. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–1574. SANDS *v.* MENARD ET AL. Sup. Ct. Wis. Certiorari denied. Reported below: 2017 WI 110, 379 Wis. 2d 1, 904 N. W. 2d 789.

No. 17–1576. VIGGERS *v.* PACHA ET AL. Ct. App. Mich. Certiorari denied.

No. 17–1578. BACQUIE *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 154 App. Div. 3d 648, 62 N. Y. S. 3d 425.

No. 17–1580. SOLOMON *v.* DESERT HEALTHCARE DISTRICT ET AL. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 17–1582. BENOIT ET UX. *v.* ST. CHARLES GAMING CO., INC. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 2017–101 (La. App. 3 Cir. 11/8/17), 230 So. 3d 997.

No. 17–1584. BARTELT *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2018 WI 16, 379 Wis. 2d 588, 906 N. W. 2d 684.

No. 17–1587. BRINGMAN *v.* JOHNSON ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–1588. GERRARD, AS TEMPORARY ADMINISTRATOR OF THE ESTATE OF WHITE *v.* WHITE, AS EXECUTOR OF THE ESTATE OF WHITE. Ct. App. Ga. Certiorari denied. Reported below: 342 Ga. App. XXV.

No. 17–1589. HICKERSON *v.* YAMAHA MOTOR CORP., U. S. A., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 3d 476.

No. 17–1590. INTEGRATED TECHNOLOGICAL SYSTEMS, INC. *v.* FIRST INTERNET BANK OF INDIANA. C. A. Fed. Cir. Certiorari denied. Reported below: 712 Fed. Appx. 1007.

No. 17–1591. HOSKINS *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 242.

No. 17–1595. GLORIOSO-BRANDT *v.* AZAR, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 792.

No. 17–1596. FRANCIS ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 403.

No. 17–1598. PEFFER ET VIR *v.* STEPHENS. C. A. 6th Cir. Certiorari denied. Reported below: 880 F. 3d 256.

No. 17–1599. OHIO EX REL. WALGATE ET AL. *v.* KASICH, GOVERNOR OF OHIO, ET AL. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied. Reported below: 2017-Ohio-5528, 93 N. E. 3d 417.

No. 17–1600. TODD *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 17–1601. BARONE *v.* WELLS FARGO BANK, N. A. Sup. Ct. Fla. Certiorari denied.

No. 17–1603. KELLEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 280.

No. 17–1605. KINNEY *v.* CLARK. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 17–1608. HOLKESVIG *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2018 ND 17, 906 N. W. 2d 84.

No. 17–1609. Best Auto Repair, Inc., et al. *v.* Universal Insurance Group et al. C. A. 1st Cir. Certiorari denied. Reported below: 875 F. 3d 733.

No. 17–1612. Hinds *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 17–1613. Wiest *v.* United States District Court for the Southern District of Ohio et al. C. A. 6th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 485.

No. 17–1615. MacPherson *v.* Commissioner of Internal Revenue. C. A. 9th Cir. Certiorari denied. Reported below: 702 Fed. Appx. 621.

No. 17–1617. Ace Partners, LLC, dba TC's Pawn Co. *v.* Town of East Hartford, Connecticut, et al. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 3d 190.

No. 17–1619. Morris *v.* Branch Banking & Trust Co. Sup. Ct. Tex. Certiorari denied.

No. 17–1620. E. B. *v.* Wicomico County Department of Social Services et al. Ct. App. Md. Certiorari denied. Reported below: 456 Md. 428, 174 A. 3d 372.

No. 17–1621. Anderson *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 17–1622. Dennis *v.* Sessions, Attorney General. C. A. 2d Cir. Certiorari denied. Reported below: 724 Fed. Appx. 34.

No. 17–1626. Assadian *v.* Parsi et al. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 17–1627. Lee, Warden *v.* Clinard. C. A. 6th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 552.

No. 17–1628. Myoungchul Shin et al. *v.* Uni-Caps, LLC, et al. C. A. 9th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 681.

No. 17–1629. Yan Sui et al. *v.* Marshack. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 642.

No. 17–1630. YAN SUI ET AL. *v.* MARSHACK ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–1631. T. B. ET VIR *v.* P. M. ET UX. Sup. Ct. Iowa. Certiorari denied. Reported below: 907 N. W. 2d 522.

No. 17–1632. MCGUIRK *v.* SWISS RE FINANCIAL SERVICES CORP. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 699 Fed. Appx. 55.

No. 17–1634. TEAMAH *v.* APPLIED MATERIALS, INC. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 343.

No. 17–1635. TRI-CITIES HOLDINGS LLC ET AL. *v.* TENNESSEE ADMINISTRATIVE PROCEDURES DIVISION ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 298.

No. 17–1637. DOE *v.* HOLCOMB, GOVERNOR OF INDIANA, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 883 F. 3d 971.

No. 17–1639. STREAMBEND PROPERTIES II, LLC, ET AL. *v.* IVY TOWER MINNEAPOLIS, LLC, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 701 Fed. Appx. 544.

No. 17–1640. MIRA *v.* KINGSTON ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 28.

No. 17–1642. HEREDIA *v.* WALMART STORES TEXAS, LLC. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 17–1643. NOLAN *v.* DEPARTMENT OF ENERGY. C. A. Fed. Cir. Certiorari denied.

No. 17–1644. XIU JIAN SUN *v.* CITY OF NEW YORK HUMAN RESOURCES ADMINISTRATION ET AL. C. A. 2d Cir. Certiorari denied.

No. 17–1645. BOMBARDIER RECREATIONAL PRODUCTS INC. ET AL. *v.* ARCTIC CAT INC. C. A. Fed. Cir. Certiorari denied. Reported below: 876 F. 3d 1350.

No. 17–1646. LYON *v.* CANADIAN NATIONAL RAILWAY CO. ET AL. C. A. 7th Cir. Certiorari denied.

No. 17–1648. GEO GROUP, INC. *v.* MENOCAL ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 882 F. 3d 905.

No. 17–1650. Town of Kearny, New Jersey *v.* New Jersey Sports and Exposition Authority. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–1651. Bates et ux. *v.* Village of Pentwater, Michigan. Ct. App. Mich. Certiorari denied.

No. 17–1652. Credit One Bank, N. A. *v.* Anderson. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 3d 382.

No. 17–1653. Town Center Flats, LLC *v.* ECP Commercial II LLC. C. A. 6th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 114.

No. 17–1658. Lyles *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 953.

No. 17–1659. Vicks et ux. *v.* Ocwen Loan Servicing, LLC, et al. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 241.

No. 17–1661. Hartfield et al. *v.* Eighth Judicial District for Nevada, Clark County, et al. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 40, 412 P. 3d 23.

No. 17–1662. Aspen Insurance (UK) Ltd. et al. *v.* Black & Veatch Corp. C. A. 10th Cir. Certiorari denied. Reported below: 882 F. 3d 952.

No. 17–1663. Checksfield *v.* Berg. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 148 App. Div. 3d 1376, 49 N. Y. S. 3d 205.

No. 17–1664. Gregory *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 838.

No. 17–1665. Dixon *v.* East Coast Music Mall et al. App. Ct. Conn. Certiorari denied. Reported below: 178 Conn. App. 901, 171 A. 3d 1113.

No. 17–1666. Diveglia *v.* Pennsylvania Department of Transportation, Bureau of Driver Licensing. Commw. Ct. Pa. Certiorari denied. Reported below: 174 A. 3d 1212.

No. 17–1667. Creative Vision Resources, L. L. C. *v.* National Labor Relations Board. C. A. 5th Cir. Certiorari denied. Reported below: 882 F. 3d 510.

No. 17–1668. NASHVILLE DOWNTOWN PLATINUM, LLC *v.* METROPOLITAN DEVELOPMENT AND HOUSING AGENCY. Ct. App. Tenn. Certiorari denied.

No. 17–1670. OSKOUI *v.* ACOSTA, SECRETARY OF LABOR. C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 908.

No. 17–1671. MIDAMINES SPRL LTD. ET AL. *v.* KBC BANK N. V. C. A. 2d Cir. Certiorari denied. Reported below: 719 Fed. Appx. 41.

No. 17–1674. YUFA *v.* TSI INC. C. A. Fed. Cir. Certiorari denied. Reported below: 730 Fed. Appx. 905.

No. 17–1675. MCINTOSH *v.* ESTATE OF TURNER, DECEASED. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 17–1677. BRADLEY *v.* WEST CHESTER UNIVERSITY OF THE PENNSYLVANIA STATE SYSTEM OF HIGHER EDUCATION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 880 F. 3d 643.

No. 17–1680. BUSTAMANTE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 703 Fed. Appx. 537.

No. 17–1681. TANNER-BROWN ET AL. *v.* ZINKE, SECRETARY OF INTERIOR, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 709 Fed. Appx. 17.

No. 17–1682. BRANUM ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 428.

No. 17–1683. BROOKS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 872 F. 3d 78.

No. 17–1684. FRANCE *v.* PATRICK. Ct. App. Ga. Certiorari denied.

No. 17–1685. MAMAKOS ET AL. *v.* TOWN OF HUNTINGTON, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 77.

No. 17–1687. SUHL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 885 F. 3d 1106.

No. 17–1688. OZARK MATERIALS RIVER ROCK, LLC *v.* BENHAM. C. A. 10th Cir. Certiorari denied. Reported below: 885 F. 3d 1267.

No. 17–1689. PERSAUD *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 86.

No. 17–1690. COONEY *v.* BARRY SCHOOL OF LAW, AKA DWAYNE O. ANDREAS SCHOOL OF LAW. C. A. 11th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 571.

No. 17–1691. BAYLAY *v.* ETIHAD AIRWAYS P. J. S. C. C. A. 7th Cir. Certiorari denied. Reported below: 881 F. 3d 1032.

No. 17–1694. XIU JIAN SUN *v.* SCHNEIDERMAN, ATTORNEY GENERAL OF NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied.

No. 17–1695. CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM ET AL. *v.* ALVAREZ ET AL. Sup. Ct. Del. Certiorari denied. Reported below: 179 A. 3d 824.

No. 17–1696. LEWIS *v.* PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–1697. MARSHALL *v.* ROYAL CARIBBEAN CRUISES LTD. C. A. 11th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 620.

No. 17–1706. PUIATTI *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 551.

No. 17–1707. NICHIA CORP. ET AL. *v.* EVERLIGHT ELECTRONICS CO., LTD., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 719 Fed. Appx. 1008.

No. 17–1708. SMITH *v.* LOUDOUN COUNTY PUBLIC SCHOOLS. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 194.

No. 17–1709. KENDALL *v.* OLSEN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 970.

No. 17–1711. HUBBARD *v.* KAISER FOUNDATION HEALTH PLAN INC. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 425.

No. 17–1714. TAVARES *v.* BRIDGELOAN INVESTORS, INC. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 241 So. 3d 154.

No. 17–1716. HENRY ET AL. *v.* CASH BIZ, LP, ET AL. Sup. Ct. Tex. Certiorari denied. Reported below: 551 S. W. 3d 111.

No. 17–1718. DEUTSCH *v.* PHIL'S ICEHOUSE, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 361.

No. 17–7297. GONZALEZ GARIBAY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 176.

No. 17–7335. YOUNG *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 3d 742.

No. 17–7476. JUNGWIRTH *v.* LEE. Ct. Civ. App. Ala. Certiorari denied. Reported below: 246 So. 3d 104.

No. 17–7613. HARPER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 875 F. 3d 329.

No. 17–7640. SAMS *v.* QUINN ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–7703. OLDHAM *v.* UNITED STATES;

No. 17–8386. NORWOOD *v.* UNITED STATES; and

No. 17–8393. WALKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 702 Fed. Appx. 367.

No. 17–7732. BROWN *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 477 Mass. 805, 81 N. E. 3d 1173.

No. 17–7801. BAGI *v.* CITY OF PARMA, OHIO. C. A. 6th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 480.

No. 17–7873. BARINAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 865 F. 3d 99.

No. 17–7930. BOYER *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 863 F. 3d 428.

No. 17–7939. CASTILLO-MURION, AKA CHAIREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 343.

No. 17–7970. ROBINSON *v.* UNITED STATES; and

No. 17–7989. MARTIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 3d 760.

No. 17–7988. MATHURIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 868 F. 3d 921.

No. 17–8008. LEON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 948.

No. 17–8041. MONTEIRO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 871 F. 3d 99.

No. 17–8059. BEAVERS, AKA STOKES, AKA WEST *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8073. COBO-COBO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 873 F. 3d 613.

No. 17–8170. HIMES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 690 Fed. Appx. 640.

No. 17–8180. ROBERTSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 387.

No. 17–8198. JACOBY *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 642 Pa. 623, 170 A. 3d 1065.

No. 17–8202. TRUELOVE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 281.

No. 17–8224. NEWMILLER *v.* RAEMISCH, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 877 F. 3d 1178.

No. 17–8260. GRIFFIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8270. HARRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 878 F. 3d 111.

No. 17–8274. BRANDON *v.* WILSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 283.

No. 17–8280. KING *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8292. VELASCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–8298. PATTERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8331. PABON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 871 F. 3d 164.

No. 17–8345. WARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 165.

No. 17–8352. MARTIN *v.* LIVING ESSENTIALS, LLC. C. A. 7th Cir. Certiorari denied.

No. 17–8365. DONAT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–8370. FLOWERS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 492.

No. 17–8411. CHAPPELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 492.

No. 17–8413. VERWIEBE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 3d 258.

No. 17–8418. MAXWELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 492.

No. 17–8421. HUTTON *v.* SHOOP, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 584.

No. 17–8432. ALI *v.* ALLBAUGH, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 824.

No. 17–8443. SANCHEZ MOLINAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 3d 1064.

No. 17–8476. SCOTT *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 877 F. 3d 42.

No. 17–8485. PANNULLO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 683.

No. 17–8524. ANTHONY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 280.

No. 17–8527. VEGA-ORTIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 822 F. 3d 1031.

No. 17–8543. PAYNE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–8553. BLANKENSHIP *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 17–8567. SAMPLE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–8576. JOHNSON *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–8587. ARJUNE *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 30 N. Y. 3d 347, 89 N. E. 3d 1207.

No. 17–8599. SHOCKLEY *v.* GRIFFITH, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 17–8616. HARNDEN *v.* MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–8623. NICHOL *v.* COLORADO. Sup. Ct. Colo. Certiorari denied.

No. 17–8624. CELAYA-CARTAJENA, AKA ALBERTO ROJAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 673 Fed. Appx. 431.

No. 17–8629. HENRY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 496.

No. 17–8632. JOHNSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 3d 226.

No. 17–8639. JAVIER VERGARA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 3d 1309.

No. 17–8645. PRESTEGUI *v.* MADDEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8646. MEDINA *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–8664. PADILLA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 817.

No. 17–8666. OWENS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2017–1258 (La. 11/13/17), 229 So. 3d 457.

No. 17–8668. ROTONDO *v.* GASPARINI. Ct. App. N. Y. Certiorari denied. Reported below: 30 N. Y. 3d 1082, 92 N. E. 3d 1239.

No. 17–8670. DINGLER *v.* MILESTONE MANAGEMENT ET AL. C. A. 5th Cir. Certiorari denied.

No. 17–8680. WILLIAMS *v.* MCCAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–8681. WALKER *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI. C. A. 8th Cir. Certiorari denied.

No. 17–8683. BARNETT *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied.

No. 17–8686. HUTTON *v.* SHOOP, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–8688. ASSA'AD-FALTAS *v.* CITY OF COLUMBIA, SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 420 S. C. 28, 800 S. E. 2d 782.

No. 17–8690. BELL *v.* KEETON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8691. BARNETT *v.* SULLIVAN, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8693. BOHANNAN *v.* GRIFFIN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 689 Fed. Appx. 377.

No. 17–8699. LOPEZ *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 974, 412 P. 3d 14.

No. 17–8703. SOLIS-ALONZO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 863.

No. 17–8707. NOZISKA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 253.

No. 17–8708. GRANT-FARLEY *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied.

No. 17–8712. ALFRED *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 17–8716. BARNETT *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 239.

No. 17–8717. LINDER *v.* HAVILAND, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–8718. BELL *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–8722. W. P. *v.* WEST VIRGINIA. Cir. Ct. Kanawha County, W. Va. Certiorari denied.

No. 17–8724. WHITFIELD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 297.

No. 17–8725. VALDIVIA *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8730. PRICE *v.* OVERMYER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–8732. NAYLOR *v.* HARRELL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 697 Fed. Appx. 416.

No. 17–8733. CARNEY *v.* TEXAS. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 17–8737. MARKHAM *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 17–8748. WILLIAMS *v.* CLARK ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 555.

No. 17–8750. MILLS *v.* SESSIONS, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied.

No. 17–8751. PATTERSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–8753. KLEIN *v.* WILLIAMS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 631.

No. 17–8755. MAYES *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 17–8756. LAROSE *v.* MISSOURI. C. A. 8th Cir. Certiorari denied.

No. 17–8761. BARGO *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 715 Fed. Appx. 17.

No. 17–8764. GUBANIC *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8768. RODRIGUEZ *v.* RATLEDGE. C. A. 4th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 261.

No. 17–8770. EVANS *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 875 F. 3d 210.

No. 17–8773. DANIELS *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–8778. SMITH *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2018 WI 2, 379 Wis. 2d 86, 905 N. W. 2d 353.

No. 17–8779. DAWSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–8780. CAINES *v.* GASTELO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8781. TAYLOR *v.* JACKSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–8786. DEVEAUX *v.* CALDWELL, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 17–8789. CROWDER *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 17–8793. RUSSELL *v.* BIELEFELD ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–8795. QUIROZ *v.* MORAN ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 707 Fed. Appx. 1.

No. 17–8799. ZELEDON *v.* HATTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8808. KESSLER *v.* OVERMYER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST. Sup. Ct. Pa. Certiorari denied.

No. 17–8810. INK, AKA IGNACIO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–8812. NASEMAN *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 17–8815. PEREZ *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 232 So. 3d 527.

No. 17–8816. ACKERMAN ET AL. *v.* BANK OF NEW YORK MELLON. Sup. Ct. Ohio. Certiorari denied. Reported below: 149 Ohio St. 3d 1416, 2017-Ohio-4038, 75 N. E. 3d 235.

No. 17–8817. COLLINS *v.* GEORGIA. Super. Ct. Athens-Clarke County, Ga. Certiorari denied.

No. 17–8820. STONE *v.* JOHNSON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 713 Fed. Appx. 103.

No. 17–8822. DUBOIS *v.* MWV HEALTHCARE ASSN., INC., ET AL. C. A. 1st Cir. Certiorari denied.

No. 17–8824. CONNER *v.* METROPOLITAN LIFE INSURANCE CO. ET AL.; and CONNER *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–8827. LACEY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 142352–U.

No. 17–8834. WALCK *v.* CORIZON HEALTH CARE SERVICES ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–8839. THOMAS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 17–8841. MANTEPAN *v.* DEROSE ET AL. Sup. Ct. Fla. Certiorari denied.

No. 17–8842. JACKSON *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 301 Ga. 774, 804 S. E. 2d 73.

No. 17–8843. SMALL *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied.

No. 17–8845. EASON *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 630.

No. 17–8846. RAMEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 880 F. 3d 447.

No. 17–8847. SATTERWHITE *v.* FRISCH'S RESTAURANT ET AL. Ct. App. Ohio, 10th App. Dist., Hamilton County. Certiorari denied.

No. 17–8849. HAMPTON *v.* STRAIGER ET AL. Ct. App. Ariz. Certiorari denied.

No. 17–8850. HUTSON *v.* GIURBINO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8851. YOUNG *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 153 App. Div. 3d 1618, 61 N. Y. S. 3d 752.

No. 17–8856. SHANK *v.* CORIZON HEALTH SERVICES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 414.

No. 17–8857. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 3d 954.

No. 17–8865. GRAZZINI-RUCKI *v.* RUCKI. Ct. App. Minn. Certiorari denied.

No. 17–8867. CLOPTON *v.* MURPHY, JUDGE, DISTRICT COURT OF GRAYSON COUNTY, TEXAS. Sup. Ct. Tex. Certiorari denied.

No. 17–8869. JORDAN *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied.

No. 17–8870. KERSEY *v.* PRUDENTIAL INSURANCE COMPANY OF AMERICA. C. A. 1st Cir. Certiorari denied.

No. 17–8881. RODRIGUEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 486.

No. 17–8883. SWINGTON *v.* CITY OF WATERLOO, IOWA, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 861.

No. 17–8887. FORTUNE *v.* HERRING. C. A. 4th Cir. Certiorari denied. Reported below: 680 Fed. Appx. 201.

No. 17–8888. HENRY *v.* CARUSO ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–8892. MORRISON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 204.

No. 17–8894. WARNER *v.* MCLAUGHLIN. C. A. 1st Cir. Certiorari denied.

No. 17–8895. NYABWA *v.* CORRECTIONS CORPORATION OF AMERICA. C. A. 5th Cir. Certiorari denied. Reported below: 703 Fed. Appx. 357.

No. 17–8896. LEONARD *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 245 So. 3d 722.

No. 17–8900. CURRY *v.* KLEE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 271.

No. 17–8901. GROGGER *v.* GENOVESE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–8902. FERGUSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 17–8903. HEATH *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied.

No. 17–8905. ISRAEL *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES ET AL. C. A. 11th Cir. Certiorari denied.

No. 17–8908. MARTINEZ *v.* ROBERTSON, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8909. JARAMILLO *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 151 App. Div. 3d 1782, 53 N. Y. S. 3d 580.

No. 17–8911. JONES *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 17–8913. STOKES ET AL. *v.* FIRST AMERICAN TITLE COMPANY OF MONTANA, INC., ET AL. Sup. Ct. Mont. Certiorari denied. Reported below: 389 Mont. 245, 406 P. 3d 439.

No. 17–8915. RAMIREZ *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 17–8916. SONIAT *v.* DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL. C. A. 5th Cir. Certiorari denied.

No. 17–8917. GILBERT *v.* DANIELS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 789.

No. 17–8918. FRANKLIN *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8919. GARCIA *v.* PICKETT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 521.

No. 17–8920. FUENTES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 17–8922. DURAN *v.* MUSE ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 833.

No. 17–8923. EVANS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 17–8924. MURRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 3d 669.

No. 17–8927. HARRIS *v.* VIGIL ET AL. C. A. 11th Cir. Certiorari denied.

No. 17–8928. GARCIA *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 17–8930. HORTON *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 17–8931. HOWELL *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–8932. FLORES *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–8935. Campbell *v.* New York City Transit Authority, Adjudication Bureau. C. A. 2d Cir. Certiorari denied.

No. 17–8937. Ferguson-Cassidy *v.* City of Los Angeles, California, et al. C. A. 9th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 611.

No. 17–8939. Terry *v.* New Jersey. Sup. Ct. N. J. Certiorari denied. Reported below: 232 N. J. 218, 179 A. 3d 378.

No. 17–8947. Peterson *v.* Burris et al. C. A. 6th Cir. Certiorari denied.

No. 17–8948. Powell *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 17–8949. Alexander *v.* Miller, Superintendent, Great Meadow Correctional Facility. C. A. 2d Cir. Certiorari denied.

No. 17–8953. Cruickshank *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 909.

No. 17–8956. Bonner *v.* Cumberland Regional High School District. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–8961. Harrington *v.* Winn, Warden. C. A. 6th Cir. Certiorari denied.

No. 17–8962. De Min Gu *v.* Federal Bureau of Investigation et al. C. A. 2d Cir. Certiorari denied.

No. 17–8963. Herbert *v.* CVS Pharmacy et al. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 698.

No. 17–8967. Merrick *v.* Brnovich, Attorney General of Arizona, et al. C. A. 9th Cir. Certiorari denied.

No. 17–8968. Moore *v.* Brewer, Warden. C. A. 6th Cir. Certiorari denied.

No. 17–8970. Blakeney *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 876 F. 3d 1126.

No. 17–8971. Bartlett *v.* Pineda, Judge, Superior Court of Arizona, Maricopa County, et al. Ct. App. Ariz. Certiorari denied.

No. 17–8972. BROWN *v.* CALIFORNIA (two judgments). Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 17–8973. JONES *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 150821–U.

No. 17–8977. SLATER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 432.

No. 17–8983. ANTONIO ALDANA *v.* SANTORO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–8989. BROWN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 17–8990. BOSTIC *v.* DAVIS ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–8994. AMANKRAH *v.* ANGLEA, ACTING WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 688 Fed. Appx. 455.

No. 17–8997. TURRIETA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 3d 1340.

No. 17–8998. LUNA-BARRAGAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 639.

No. 17–8999. REED *v.* HARTFORD SUPER 8 ET AL. C. A. 2d Cir. Certiorari denied.

No. 17–9002. ARGON *v.* CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9004. STURGES *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9007. BAILEY *v.* GARDNER ET AL. C. A. 4th Cir. Certiorari denied.

No. 17–9010. WIMBERLY *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9012. WINSTON *v.* BANK OF NOVA SCOTIA, DBA SCOTIA BANK. C. A. 3d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 138.

No. 17–9014. OXNER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 916.

No. 17–9015. PITTMAN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 871 F. 3d 1231.

No. 17–9016. PRINCE *v.* LOUISIANA. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 2016–260 (La. App. 3 Cir. 2/1/17), 211 So. 3d 481.

No. 17–9018. LITTLEJOHN *v.* ROYAL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 875 F. 3d 548.

No. 17–9019. JOHNSON *v.* MACKIE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9022. ABDUL-SALAAM *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 644 Pa. 149, 174 A. 3d 1049.

No. 17–9024. JACOBS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 17–9025. LIDDELL *v.* NEW JERSEY DEPARTMENT OF CORRECTIONS. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–9027. LACAYO *v.* TANNER, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–9030. CURRY *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 222.

No. 17–9031. MARTIN *v.* WENDY'S INTERNATIONAL, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 590.

No. 17–9032. MAXBERRY *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 722 Fed. Appx. 997.

No. 17–9034. TAYLOR *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 17–9035. DUMA *v.* WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY. Ct. App. D. C. Certiorari denied. Reported below: 159 A. 3d 1220.

No. 17–9036. ROBINSON *v.* NEVADA SYSTEM OF HIGHER EDUCATION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 377.

No. 17–9040. MEREDITH *v.* O'ROURKE, SECRETARY OF VETERANS AFFAIRS. C. A. 8th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 392.

No. 17–9046. HAMMONDS *v.* DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 841.

No. 17–9047. ALBERT *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 17–9048. PIRELA *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 710 Fed. Appx. 66.

No. 17–9051. SMITH *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 37.

No. 17–9052. WHITE *v.* KNIGHT, SUPERINTENDENT, CORRECTIONAL INDUSTRIAL FACILITY. C. A. 7th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 260.

No. 17–9054. TOWBRIDGE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 17–9056. CONRAD *v.* MAYS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9058. CARTER *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 4th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 176.

No. 17–9060. BARNETT *v.* LAUREL COUNTY, KENTUCKY, ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–9062. BELL *v.* U. S. BANK N. A. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 232 So. 3d 385.

No. 17–9063. BELL *v.* U. S. BANK N. A. ET AL. Sup. Ct. Fla. Certiorari denied.

No. 17–9064. BELL *v.* PLM L. P. ET AL. Sup. Ct. Fla. Certiorari denied.

No. 17–9069. DEGRATE *v.* HARRIS, CLERK, SUPREME COURT OF THE UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 707 Fed. Appx. 721.

No. 17–9071. BAILEY *v.* WHITE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9072. QUINN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 17–9074. CHONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 329.

No. 17–9075. RAMIREZ *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 303 Ga. 232, 811 S. E. 2d 416.

No. 17–9076. BROWN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 880 F. 3d 399.

No. 17–9077. CONDON *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 77 M. J. 244.

No. 17–9078. ARLOTTA *v.* BANK OF AMERICA, N. A., ET AL.; and ARLOTTA *v.* DIOCESE OF BUFFALO ET AL. C. A. 2d Cir. Certiorari denied.

No. 17–9079. RUIZ *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 185 A. 3d 718.

No. 17–9080. REYES-QUINTERO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 708.

No. 17–9081. STINNETT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 821.

No. 17–9084. UPTERGROVE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 620.

No. 17–9085. WESTINE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 3d 659.

No. 17–9087. MEMBRENO-AREVALO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 463.

No. 17–9088. SANCHEZ ROLON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 17–9089. HIRSCH *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–9090. GAGNON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9091. HUMPHREYS *v.* WELLS FARGO BANK, N. A. Super. Ct. Pa. Certiorari denied. Reported below: 160 A. 3d 266.

No. 17–9092. HELTON *v.* PASH, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 17–9093. DAVIS *v.* YORK COUNTY BOARD OF SUPERVISORS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 182.

No. 17–9094. BARRIOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 713.

No. 17–9095. CRUZ DIAZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 330.

No. 17–9096. PARUM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 502.

No. 17–9098. MARTIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 325.

No. 17–9099. LONGORIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 327.

No. 17–9102. HORTON *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 17–9103. GLEASON *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 17–9104. CARMENATE-PALENCIA, AKA GIULIAN *v.* SESSIONS, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied.

No. 17–9106. FRAZIER *v.* WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9108. HURD *v.* LIZARRAGA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9109. GARRINGER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 894.

No. 17–9111. GIRARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9112. GUERRERO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 17–9113. HUDGINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9114. HARDY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 262.

No. 17–9116. HOWARD *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 17–9117. FRANKLIN *v.* HAWLEY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 879 F. 3d 307.

No. 17–9118. WILLIAMS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 17–9119. SHUE *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 133 Nev. 798, 407 P. 3d 332.

No. 17–9120. GLENEWINKEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9121. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9122. GEREBIZZA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 302.

No. 17–9124. GJURAJ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 17–9125. LEWIS *v.* NOGAN, ADMINISTRATOR, EAST JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9126. ARAMBUL-DURAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 352.

No. 17–9131. PINET-FUENTES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 888 F. 3d 557.

No. 17–9132. WALDROP *v.* DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 900.

No. 17–9133. VERDUZCO *v.* SPEARMAN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 579.

No. 17–9135. THOMAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 994.

No. 17–9136. TERRY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 939.

No. 17–9137. ALVAREZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 3d 640.

No. 17–9138. HILL *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9139. YUN *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 511.

No. 17–9140. FRIE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 209.

No. 17–9141. HAREN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9142. HALL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 687 Fed. Appx. 906.

No. 17–9143. HOLDER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 586 Fed. Appx. 82.

No. 17–9144. HONISH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9145. MALOY *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied.

No. 17–9146. LEWIS *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–9147. GARCIA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 17–9148. FRAZIER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 249.

No. 17–9149. GREEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9150. FORTSON *v.* EPPINGER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9152. LUMA *v.* FLORIDA DEPARTMENT OF REVENUE. Sup. Ct. Fla. Certiorari denied.

No. 17–9153. JONES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 231 So. 3d 374.

No. 17–9154. BRIGHT *v.* BRYSON, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 17–9156. TURNER *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 295 Va. 104, 809 S. E. 2d 679.

No. 17–9157. HARRIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 715.

No. 17–9158. BASKIN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 3d 1106.

No. 17–9160. TOPILINA, AKA PINCHUK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 689.

No. 17–9161. BATES *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 98.

No. 17–9162. PERRY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 539.

No. 17–9163. LOPEZ-COTTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 884 F. 3d 1.

No. 17–9164. PEMBERTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 221.

No. 17–9165. WITHERSPOON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9166. HARRIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 712 Fed. Appx. 108.

No. 17–9167. KRYGER *v.* SOUTH DAKOTA. Sup. Ct. S. D. Certiorari denied. Reported below: 2018 S.D. 13, 907 N. W. 2d 800.

No. 17–9168. STUDHORSE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 1198.

No. 17–9172. RYAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 3d 449.

No. 17–9173. SUGGS *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 546.

No. 17–9174. DABNEY *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 478 Mass. 839, 90 N. E. 3d 750.

No. 17–9176. HIGGINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 678 Fed. Appx. 147.

No. 17–9177. GOWADIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9178. GARCIA-ESPARZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 697 Fed. Appx. 426.

No. 17–9179. ABEL GRIMALDO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9180. FREDERICK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9181. GENTILE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 911.

No. 17–9182. GONZALEZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 17–9183. HODGE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 254.

No. 17–9184. GARCIA *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9185. GUADARRAMA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9186. FALKENHORST *v.* HARRIS COUNTY CHILDREN'S PROTECTIVE SERVICES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 228.

No. 17–9187. MURPHY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 689.

No. 17–9188. MEARS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 241.

No. 17–9189. MILTIER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 882 F. 3d 81.

No. 17–9190. PALMER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 230.

No. 17–9191. MEAUX *v.* LOUISIANA. C. A. 5th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 380.

No. 17–9192. GROSE *v.* OUTLAW, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–9194. GARDNER *v.* NEW MEXICO. Sup. Ct. N. M. Certiorari denied.

No. 17–9195. HOOD *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 17–9196. KALABA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 727 Fed. Appx. 1.

No. 17–9197. JANATSCH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 806.

No. 17–9198. TAFOYA, AKA TAPIOA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 401.

No. 17–9199. BUSTAMANTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 965.

No. 17–9200. DASA *v.* CAIN, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 17–9202. SORENSEN *v.* WASHINGTON. Ct. App. Wash. Certiorari denied.

No. 17–9203. RAMOS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 632.

No. 17–9204. RHODES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 554.

No. 17–9205. ROSALES-AGUILAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 818 F. 3d 965.

No. 17–9206. SWEET *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 646.

No. 17–9207. DAVIS *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 69, 539 S. W. 3d 565.

No. 17–9208. EVANS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 1154.

No. 17–9209. ALLBROOKS *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 256 N. C. App. 505, 808 S. E. 2d 168.

No. 17–9210. BUTTERCASE *v.* NEBRASKA. Ct. App. Neb. Certiorari denied. Reported below: 25 Neb. App. xi.

No. 17–9211. ZAITSEV *v.* KELLER. Ct. App. Wash. Certiorari denied. Reported below: 200 Wash. App. 1003.

No. 17–9212. WU *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 824.

No. 17–9213. WILLIAMS *v.* KENT, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–9214. KRAWCZUK *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 3d 1273.

No. 17–9215. MATHIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 17–9216. KENNEDY *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2017 IL App (4th) 150372–U.

No. 17–9217. KEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 274.

No. 17–9219. ALEXANDER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 492.

No. 17–9220. HEIKKILA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 546.

No. 17–9222. FREE *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 200 Wash. App. 1055.

No. 17–9224. HUSBAND *v.* EBBERT, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9225. FRANK *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 175 A. 3d 394.

No. 17–9227. GERAY *v.* MUNIZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 678 Fed. Appx. 607.

No. 17–9228. HAMILTON *v.* BRANNON, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 17–9229. GLADDEN *v.* BARBER, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 128.

No. 17–9230. FARRAR *v.* PETERS, DIRECTOR, OREGON DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 363.

No. 17–9231. FORD *v.* DOE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 642.

No. 17–9232. FAWLEY *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 736.

No. 17–9233. HENDRIX *v.* TEXAS. Ct. App. Tex., 6th Dist. Certiorari denied.

No. 17–9234. LEVINE *v.* STATE BAR OF GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 303 Ga. 284, 811 S. E. 2d 349.

No. 17–9236. CHANNON *v.* UNITED STATES; and
No. 17–9242. CHANNON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 3d 806.

No. 17–9237. RICE *v.* MONTGOMERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 743.

No. 17–9241. SMITH *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied.

No. 17–9243. STEPHENS *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 94.

No. 17–9244. JOHNSON *v.* MITCHELL, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 303.

No. 17–9245. CAMILO LOPEZ *v.* KEY, SUPERINTENDENT, AIRWAY HEIGHTS CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 17–9246. MARQUARDT *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 239 So. 3d 1251.

No. 17–9247. CASSIANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 3d 314.

No. 17–9249. RAMNARAINE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 749.

No. 17–9250. FLOWERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 820.

No. 17–9251. KARBAN *v.* BRNOVICH, ATTORNEY GENERAL OF ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9252. LUCERO *v.* TURCO ET AL. C. A. 1st Cir. Certiorari denied.

No. 17–9253. PIERRE *v.* ATTORNEY GRIEVANCE COMMITTEE FOR THE FIRST JUDICIAL DEPARTMENT. Ct. App. N. Y. Certiorari denied. Reported below: 31 N. Y. 3d 1043, 100 N. E. 3d 844.

No. 17–9254. FRATICELLI *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 170 A. 3d 1246.

No. 17–9256. GRIFFITH *v.* BLADES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9257. FOLLANSBEE *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9258. GARRETT *v.* PARAMO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9260. COLEBROOK *v.* CIT BANK. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 529.

No. 17–9261. CROMARTIE *v.* ALABAMA STATE UNIVERSITY ET AL. Sup. Ct. Ala. Certiorari denied.

No. 17–9267. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 701.

No. 17–9268. SCHNEIDER *v.* WELKER. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 243 So. 3d 374.

No. 17–9270. STEELE *v.* CHEATHAM, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 17–9271. FRANK *v.* RACKLEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9272. TIPPINS *v.* CARUSO ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–9273. TIPPINS *v.* NWI–1, INC., ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–9274. ANDERSON *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied.

No. 17–9275. ARIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 804.

No. 17–9277. ZAPATA-OCHOA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 407.

No. 17–9278. CORTEZ-LUNA *v.* UNITED STATES; and
No. 17–9402. SERRATO-NAVARRO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 394.

No. 17–9279. UDOH *v.* DOOLEY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 17–9280. MORTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 419.

No. 17–9281. GRAY *v.* GILMORE, SUPERINTENDENT, CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9282. GRABLE *v.* TURNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9283. IOANE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9285. HARWELL *v.* SCHWEITZER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9286. HARDEN *v.* BOWERSOX, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 17–9287. HOLLIS *v.* PFISTER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 17–9288. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9289. RODGERS *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 268 So. 3d 636.

No. 17–9291. SULLIVAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 946.

No. 17–9292. STYLES *v.* DEPARTMENT OF VETERANS AFFAIRS. C. A. 6th Cir. Certiorari denied.

No. 17–9293. SCOTT *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9294. REDIC *v.* RACKLEY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 695 Fed. Appx. 236.

No. 17–9296. HASTINGS *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9297. HAMILTON *v.* STRAHOTA, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 17–9298. GLOVER *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9299. GALVAN *v.* STEWART, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 392.

No. 17–9300. HAWKINS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 208.

No. 17–9301. FOUNTAIN *v.* RUPERT, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 17–9302. Howard *v.* Texas. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 527 S. W. 3d 348.

No. 17–9303. Geotcha *v.* Texas. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 17–9304. Fabricant *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 677 Fed. Appx. 408.

No. 17–9305. Wright *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 873.

No. 17–9307. Kirkpatrick *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 357.

No. 17–9308. Johnson *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 1007.

No. 17–9309. Maxwell *v.* California. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 17–9311. Johnson *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 224.

No. 17–9312. Higley *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 715.

No. 17–9313. McMahon *v.* Neven, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 17–9314. Miller *v.* Jones, Secretary, Florida Department of Corrections. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 921.

No. 17–9315. Aguilar *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 246.

No. 17–9316. Edwards *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 694 Fed. Appx. 770.

No. 17–9317. Hall *v.* City of Detroit, Michigan, et al. C. A. 6th Cir. Certiorari denied.

No. 17–9318. Inman *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 17–9319. GIVENS *v.* ALLEN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 17–9320. HYDE-EL *v.* POOLE. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 203.

No. 17–9321. GUZMAN *v.* MADDEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9322. HAFFER *v.* NEW HAMPSHIRE. Sup. Ct. N. H. Certiorari denied.

No. 17–9325. NELSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 17–9327. MALLORY *v.* SIMON & SCHUSTER, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 728 Fed. Appx. 132.

No. 17–9328. MALDONADO-ZELAYA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 424.

No. 17–9329. JEFFRIES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 283.

No. 17–9330. MELTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 17–9331. CHASSON, AKA ALIAS, AKA HASON *v.* SESSIONS, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied.

No. 17–9333. THYBERG *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 847.

No. 17–9334. SMITH *v.* MYRICK, SUPERINTENDENT, TWO RIVERS CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 17–9335. SMITH *v.* CAIN, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION, ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9336. SHEFFIELD *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 438.

No. 17–9337. SUSALLA *v.* HARRY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9338. SCHNAGL *v.* MINNESOTA. Ct. App. Minn. Certiorari denied. Reported below: 907 N. W. 2d 188.

No. 17–9341. MCLAMB *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 880 F. 3d 685.

No. 17–9342. MEDINA-AVALOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 434.

No. 17–9343. JENKINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 241.

No. 17–9344. ENGLAND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 798.

No. 17–9345. LASCHKEWITSCH *v.* TRANSAMERICA LIFE INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 275.

No. 17–9346. WOODWARD *v.* KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 54 Kan. App. 2d xxxiii, 398 P. 3d 880.

No. 17–9347. ALDANA ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 878 F. 3d 877.

No. 17–9348. BOWLES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 292.

No. 17–9349. JOHNSON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied.

No. 17–9350. THI HOUNG LE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 249.

No. 17–9351. TRIPLETT *v.* WYOMING. Sup. Ct. Wyo. Certiorari denied. Reported below: 2017 WY 148, 406 P. 3d 1257.

No. 17–9352. VIOLA *v.* BENNETT. C. A. 6th Cir. Certiorari denied.

No. 17–9354. WALKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9356. WALSH *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 278, 406 P. 3d 123.

No. 17–9357. DEASON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9358. GRAVES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 877 F. 3d 494.

No. 17–9359. LUNA VALDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 17–9360. BOOKER *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 298.

No. 17–9361. BELL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 287.

No. 17–9362. DOCKERY *v.* CLARK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9363. MCFARLIN *v.* HARRIS, CLERK, SUPREME COURT OF THE UNITED STATES, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 354.

No. 17–9364. MOLINA *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 181 A. 3d 412.

No. 17–9365. OKOH *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 17–9367. NEWBERG *v.* PALMER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 586.

No. 17–9368. RANDLE *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 17–9370. SANTAMARIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 464.

No. 17–9371. SIMS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–9372. CESAR RAMIREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 470.

No. 17–9373. REECE *v.* BASI ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 685.

No. 17–9375. DILLBECK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 558.

No. 17–9376. Duran *v.* Grounds, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 728.

No. 17–9380. Long *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 293.

No. 17–9381. Mayo *v.* Oppman et al. C. A. 3d Cir. Certiorari denied.

No. 17–9382. Lewis *v.* Jones, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 17–9383. Mitchell *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 17–9385. Mayhew *v.* Arizona. Ct. App. Ariz. Certiorari denied.

No. 17–9386. Bradley *v.* Jones, Secretary, Florida Department of Corrections. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 95.

No. 17–9387. Tappen *v.* Jones, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 630.

No. 17–9388. Towne *v.* Vermont. Sup. Ct. Vt. Certiorari denied. Reported below: 2018 VT 5, 206 Vt. 615, 182 A. 3d 1149.

No. 17–9389. Foster *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 290.

No. 17–9390. Martinez-Gonzalez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 407.

No. 17–9391. Jiyao Jiang *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 91.

No. 17–9392. Grant *v.* White et al. C. A. 9th Cir. Certiorari denied. Reported below: 703 Fed. Appx. 523.

No. 17–9393. Gaspard et al. *v.* Drug Enforcement Administration Task Force et al. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 382.

No. 17–9394. Farooq *v.* Russell, Warden. C. A. 6th Cir. Certiorari denied.

No. 17–9395. Hines *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 17–9396. Houk *v.* Iowa. Ct. App. Iowa. Certiorari denied. Reported below: 898 N. W. 2d 202.

No. 17–9397. Horsley *v.* Jones, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 937.

No. 17–9398. Rock *v.* Executive Office Park of Durham Assn., Inc. Sup. Ct. N. C. Certiorari denied. Reported below: 370 N. C. 585, 809 S. E. 2d 602.

No. 17–9401. Quince *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 233 So. 3d 1017.

No. 17–9403. Roby *v.* Demoura, Superintendent, Massachusetts Correctional Institution at Concord. C. A. 1st Cir. Certiorari denied.

No. 17–9404. Burgett *v.* Porter et al. C. A. 8th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 271.

No. 17–9405. Ivory *v.* Hubbard. C. A. 8th Cir. Certiorari denied.

No. 17–9406. Ingram *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 17–9407. Isasi *v.* Annucci, Acting Commissioner, New York Department of Corrections and Community Supervision. C. A. 2d Cir. Certiorari denied.

No. 17–9408. Zografidis *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 729 Fed. Appx. 41.

No. 17–9409. Sutton *v.* Tennessee. Ct. Crim. App. Tenn. Certiorari denied.

No. 17–9410. Olivo Ramirez *v.* Hooks, Secretary, North Carolina Department of Public Safety. C. A. 4th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 179.

No. 17–9412. HANKISHIYEV *v.* ARUP LABORATORIES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 673.

No. 17–9414. COLTON *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA. C. A. 8th Cir. Certiorari denied.

No. 17–9415. ROBINSON *v.* SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 809.

No. 17–9416. KELLY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 17–9417. SEALED APPELLANT *v.* SEALED APPELLEE. C. A. 5th Cir. Certiorari denied.

No. 17–9418. BARTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 3d 595.

No. 17–9419. PAIGE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 17–9420. PORTER *v.* JOYNER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 227.

No. 17–9421. OBEGINSKI *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 338 Ga. App. XXVII.

No. 17–9422. NUNN *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 17–9423. WOODS *v.* ARIZONA. C. A. 9th Cir. Certiorari denied.

No. 17–9424. MCBRIDE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 285.

No. 17–9425. MOORE *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 152 Ohio St. 3d 1419, 2018-Ohio-923, 93 N. E. 3d 1001.

No. 17–9426. MILLER *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9427. CARTER *v.* SHERRILL ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 111.

No. 17–9428. JOHNSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9429. MANZO-RIOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 773.

No. 17–9430. JACKSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 631.

No. 17–9431. LAWRENCE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 240.

No. 17–9432. JENKINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9433. JUNOD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9434. JAMES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 196.

No. 17–9435. DAVIS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 301.

No. 17–9437. MORALES-VELEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 17–9438. WEST *v.* SESSIONS, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied.

No. 17–9439. WINDOM *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 556.

No. 17–9440. LISTER *v.* MCGINLEY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT COAL TOWNSHIP, ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–9441. LEON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 673.

No. 17–9442. JUDY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9444. STEPHENS ET AL. *v.* CITY OF ENGLEWOOD, NEW JERSEY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 689 Fed. Appx. 710.

No. 17–9445. SUAREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 653.

No. 17–9448. JOHNSON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied.

No. 17–9449. COTTRELL *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 421 S. C. 622, 809 S. E. 2d 423.

No. 17–9450. PATTERSON *v.* ASUNCION, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 936.

No. 17–9451. MOREL ET AL. *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 885 F. 3d 17.

No. 17–9452. MYHRE *v.* SEVENTH-DAY ADVENTIST CHURCH REFORM MOVEMENT AMERICAN UNION INTERNATIONAL MISSIONARY SOCIETY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 926.

No. 17–9453. PRILLERMAN *v.* HUGGINS ET AL. C. A. 8th Cir. Certiorari denied.

No. 17–9454. HALPER *v.* COLORADO. Dist. Ct. Colo., Ouray County. Certiorari denied.

No. 17–9455. BOLANOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 822.

No. 17–9456. CARROLL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 659.

No. 17–9457. JOHNSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 883.

No. 17–9459. PETERS *v.* SATKIEWICZ ET AL. C. A. 7th Cir. Certiorari denied.

No. 17–9460. MCKNIGHT *v.* BISHOP, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 151.

No. 17–9461. BULOVIC *v.* STOP & SHOP SUPERMARKET CO., LLC, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 698 Fed. Appx. 21.

No. 17–9462. CRAWFORD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 17–9463. ROJAS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 240 So. 3d 701.

No. 17–9464. PETERSON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2017 IL 120331, 106 N. E. 3d 944.

No. 17–9466. MOORE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 150240–U.

No. 17–9470. ILDEFONSO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 661.

No. 17–9471. GARCIA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9472. FRANCO-DE LA CRUZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 469.

No. 17–9473. ANTONIO GONZALEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 404.

No. 17–9475. HEATH *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 931.

No. 17–9476. ELGHANNAM *v.* EDUCATIONAL TESTING SERVICE. Ct. App. D. C. Certiorari denied. Reported below: 171 A. 3d 185.

No. 17–9477. GRANT *v.* ALPEROVICH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 703 Fed. Appx. 556.

No. 17–9478. FISHER *v.* MISSOURI. C. A. 8th Cir. Certiorari denied.

No. 17–9479. WRIGHT *v.* MARTIN ET AL. C. A. 11th Cir. Certiorari denied.

No. 17–9481. WYATT *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 242 So. 3d 363.

No. 17–9482. WEEKS *v.* LEWIS, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 17–9483. GREGORY *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 342 Ga. App. 411, 803 S. E. 2d 367.

No. 17–9485. LEBLANC-SIMPSON *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied.

No. 17–9486. KIMBALL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 716.

No. 17–9487. RODRIGUEZ *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 92 Mass. App. 1115, 94 N. E. 3d 880.

No. 17–9488. BROWN *v.* ILLINOIS DEPARTMENT OF HUMAN SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 623.

No. 17–9489. LEBRON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9491. MCKISSICK *v.* DEAL, GOVERNOR OF GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 17–9492. CLARK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 99.

No. 17–9493. DAMREN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 230.

No. 17–9494. CHRISTIAN *v.* UNITED STATES ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 306.

No. 17–9495. BURKS *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 3d 663.

No. 17–9496. PETERKA *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 903.

No. 17–9497. OCCHICONE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 299.

No. 17–9498. HARTLEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 908.

No. 17–9499. ATWATER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 550.

No. 17–9500. SWINTON *v.* RACETTE, SUPERINTENDENT, GREAT MEADOWS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 17–9502. STEVENSON *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 235 Md. App. 749.

No. 17–9503. ROGERS *v.* LIBERTY BELL BANK. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 147.

No. 17–9504. RAY *v.* MCCOLLUM, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 517.

No. 17–9505. DOTSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9506. WALKER *v.* HOWELL, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 760.

No. 17–9507. THOMPSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 492.

No. 17–9508. DOVE *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9509. ESTREMERA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 17–9510. WALLS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 96.

No. 17–9511. KNAPP *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9512. JONES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 729 Fed. Appx. 21.

No. 17–9513. LYKINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9514. WAGNER *v.* FORD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9515. WALTON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9516. TAULBEE *v.* NOBLE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9517. DENOMA *v.* KASICH, GOVERNOR OF OHIO, ET AL. C. A. 6th Cir. Certiorari denied.

No. 17–9518. CARPENTER *v.* WHITE ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 553.

No. 17–9519. HARDIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 281.

No. 17–9520. PHILLIPS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 547.

No. 17–9521. HERRINGTON *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied.

No. 17–9522. HORTON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 17–9523. BREKHUS *v.* CITY OF BISMARCK, NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2018 ND 84, 908 N. W. 2d 715.

No. 17–9524. CRUMBLE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 878 Fed. Appx. 656.

No. 17–9525. WALL *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 3 Cal. 5th 1048, 404 P. 3d 1209.

No. 17–9526. CRUZ *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 11th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 875.

No. 17–9527. JAVIER JASSO *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 729.

No. 17–9528. LOPEZ-FUENTES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 341.

No. 17–9529. EDENSTROM *v.* THURSTON COUNTY, WASHINGTON, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 752.

No. 17–9531. HAYS *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 17–9532. HUBBARD *v.* HAVILAND, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9533. FOX *v.* TRIPP ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 787.

No. 17–9534. FLETCHER *v.* LENGERICH, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 702 Fed. Appx. 795.

No. 17–9536. KOKAL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 907.

No. 17–9537. MARQUARD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 560.

No. 17–9539. HOOD *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9540. FARMER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 218.

No. 17–9541. FRITZ *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9542. GRIFFITH *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 17–9543. SOLIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 632.

No. 17–9544. REED *v.* FORD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 17–9545. STEIN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 919.

No. 17–9546. RALEIGH *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 239 So. 3d 1185.

No. 17–9547. CAUKIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9548. WILLACY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 100.

No. 17–9550. TORRES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 17–9551. MCCLURE *v.* OREGON BOARD OF PAROLE AND POST-PRISON SUPERVISION. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 702, 406 P. 3d 241.

No. 17–9552. MORRIS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 324.

No. 17–9553. MERRIWEATHER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 498.

No. 17–9554. NELSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 308.

No. 17–9555. MELTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 234.

No. 17–9557. OROZCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 504.

No. 17–9558. AVALOS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 17–9561. POLK *v.* HILL, ACTING WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 688.

No. 17–9562. TAYLOR *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 342 Ga. App. 814, 805 S. E. 2d 131.

No. 17–9563. INGRAM *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 17–9564. JACKSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 905.

No. 17–9565. CHATMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9566. PINKNEY *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 876 F. 3d 1290.

No. 17–9567. BROWN *v.* DEL NORTE COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 17–9569. BRADFIELD *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 838.

No. 17–9570. DAVIS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 295.

No. 17–9571. CUEVAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 436.

No. 17–9573. HODGES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 241.

No. 17–9574. FLOWERS *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 907 N. W. 2d 901.

No. 17–9575. GONZALEZ *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 240 So. 3d 629.

No. 17–9576. PELLUM *v.* FISHER ET AL. Ct. Sp. App. Md. Certiorari denied. Reported below: 233 Md. App. 755 and 762.

No. 17–9577. MCKINNEY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 827.

No. 17–9578. MCCLINTON *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 116, 542 S. W. 3d 859.

No. 17–9579. RUSSELL *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 299 Neb. 483, 908 N. W. 2d 669.

No. 17–9580. JOHNSON *v.* FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 17–9581. VELO-CANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 352.

No. 17–9582. CORKER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9583. WINTERS *v.* CINCINNATI INSURANCE CO. Ct. App. Utah. Certiorari denied.

No. 17–9584. SHAMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 17–9585. HATCHER *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 17–9586. ZENQUIS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 17–9587. GAMBLE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 288.

No. 17–9588. FINNEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 279.

No. 17–9590. FOX *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9591. HARDY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–9592. MARTINEZ-HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 358.

No. 17–9593. KNOX *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 883 F. 3d 1262.

No. 17–9594. KRASKEY *v.* GROSCHEN. Ct. App. Minn. Certiorari denied.

No. 17–9595. SHARNESE *v.* LOPEZ ET AL. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 18–1. C. G. *v.* DEBORAH HEART AND LUNG CENTER ET AL. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–3. OHLENDORF ET AL. *v.* LOCAL 876, UNITED FOOD & COMMERCIAL WORKERS INTERNATIONAL UNION. C. A. 6th Cir. Certiorari denied. Reported below: 883 F. 3d 636.

No. 18–4. GIANCARLO ET AL. *v.* UBS FINANCIAL SERVICES, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 278.

No. 18–5. RILEY *v.* OHIO. Ct. App. Ohio, 4th App. Dist., Washington County. Certiorari denied. Reported below: 2017-Ohio-5819.

No. 18–6. MCNEIL *v.* MARSH ET AL. Ct. Civ. App. Okla. Certiorari denied.

No. 18–9. WASHINGTON *v.* AZAR, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 279.

No. 18–10. ANDERSON ET UX. *v.* RAINSDON, CHAPTER 7 TRUSTEE. C. A. 9th Cir. Certiorari denied.

No. 18–11. KAN-DI-KI, LLC, DBA DIAGNOSTIC LABORATORIES *v.* SORENSEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 432.

No. 18–13. FRANCISCO MALDONADO *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 18–19. REPUBLIC OF KOREA'S DEFENSE ACQUISITION PROGRAM ADMINISTRATION ET AL. *v.* BAE SYSTEMS SOLUTION &

SERVICES, INC. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 3d 463.

No. 18–20. BANGIYEV *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 116.

No. 18–21. ALLERGAN SALES, LLC *v.* SANDOZ, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 717 Fed. Appx. 991.

No. 18–22. YOUNG SUNG LEE ET AL. *v.* GARVEY. C. A. 2d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 11.

No. 18–23. STOLZ, DBA ROYCE INTERNATIONAL BROADCASTING CO. *v.* FEDERAL COMMUNICATIONS COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 882 F. 3d 234.

No. 18–24. HYLAND *v.* LIBERTY MUTUAL FIRE INSURANCE CO. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 3d 482.

No. 18–25. MANDEL *v.* THRASHER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 186.

No. 18–26. SCHAFLER *v.* MERRILL LYNCH, PIERCE, FENNER & SMITH INC. C. A. 2d Cir. Certiorari denied. Reported below: 707 Fed. Appx. 751.

No. 18–27. ESTATE OF JACKSON ET AL. *v.* SCHRON. C. A. 11th Cir. Certiorari denied. Reported below: 873 F. 3d 1325.

No. 18–28. BALDING *v.* SUNBELT STEEL TEXAS, INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 742.

No. 18–30. BYRD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 697 Fed. Appx. 431.

No. 18–31. BECK *v.* NATIONSTAR MORTGAGE, LLC, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 691.

No. 18–32. PHILADELPHIA TAXI ASSN., INC., ET AL. *v.* UBER TECHNOLOGIES, INC. C. A. 3d Cir. Certiorari denied. Reported below: 886 F. 3d 332.

No. 18–33. SUBWAY SANDWICH SHOPS, INC. *v.* RAHMANY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 752.

No. 18–34. San Martin *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 930.

No. 18–38. Erwin *v.* Department of the Army. C. A. Fed. Cir. Certiorari denied. Reported below: 708 Fed. Appx. 1019.

No. 18–40. Legacy Community Health Services, Inc. *v.* Smith, Executive Commissioner, Texas Health and Human Services Commission. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 3d 358.

No. 18–41. Baptiste *v.* Gray. Sup. Ct. Fla. Certiorari denied.

No. 18–43. Loor *v.* Bailey et al. C. A. 11th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 992.

No. 18–44. Kwok et al. *v.* Mingo Energy, LLC. Ct. Civ. App. Okla. Certiorari denied. Reported below: 2018 OK CIV APP 33, 417 P. 3d 393.

No. 18–45. Whitehead *v.* Netflix et al. C. A. 5th Cir. Certiorari denied.

No. 18–46. City of Middletown, Connecticut, et al. *v.* McKinney. C. A. 2d Cir. Certiorari denied. Reported below: 712 Fed. Appx. 97.

No. 18–47. McClary et al. *v.* Commodores Entertainment Corp. C. A. 11th Cir. Certiorari denied. Reported below: 879 F. 3d 1114.

No. 18–49. Plumb et al. *v.* U. S. Bank N. A. et al. Ct. App. Wash. Certiorari denied. Reported below: 1 Wash. App. 2d 1045.

No. 18–51. Francis et ux. *v.* Commissioner of Internal Revenue. C. A. 8th Cir. Certiorari denied.

No. 18–52. Leitner-Wise *v.* LWRC International, LLC, et al. C. A. Fed. Cir. Certiorari denied. Reported below: 711 Fed. Appx. 646.

No. 18–53. Dillard *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 884 F. 3d 758.

No. 18–54. DABBS *v.* ANNE ARUNDEL COUNTY, MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 458 Md. 331, 182 A. 3d 798.

No. 18–55. DIGITAL ALLY, INC. *v.* TASER INTERNATIONAL, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 720 Fed. Appx. 1023.

No. 18–57. VALLEJOS *v.* LOVELACE MEDICAL CENTER ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 923.

No. 18–58. PRICE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 241.

No. 18–59. PINEIRO PEREZ ET AL. *v.* BP, P. L. C., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 360.

No. 18–60. GUNN *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2018 ND 95, 909 N. W. 2d 701.

No. 18–62. COLBRY ET AL. *v.* VON PIER, DIRECTOR, NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–63. BRIGGS *v.* SONY PICTURES ENTERTAINMENT, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 712.

No. 18–65. ARONSTEIN ET AL. *v.* THOMPSON CREEK METALS CO., INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 489.

No. 18–66. ROSS *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 18–68. CONFORTO *v.* SPENCER, SECRETARY OF THE NAVY, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 669.

No. 18–69. YAN PING XU *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 700 Fed. Appx. 62.

No. 18–70. COSBY *v.* DICKINSON. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied. Reported below: 17 Cal. App. 5th 655, 225 Cal. Rptr. 3d 430.

No. 18–71. CANETE *v.* BARNABAS HEALTH SYSTEM ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 168.

No. 18–72. DRK PHOTO *v.* JOHN WILEY & SONS, INC. C. A. 2d Cir. Certiorari denied. Reported below: 882 F. 3d 394.

No. 18–74. ZOVKO ET AL. *v.* NATIONAL CREDIT UNION ADMINISTRATION BOARD. C. A. 6th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 567.

No. 18–75. JIAN LONG DONG, AKA JIAN RONG DONG *v.* SESSIONS, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 18–76. GEORGE ET AL. *v.* HARGETT, TENNESSEE SECRETARY OF STATE, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 3d 711.

No. 18–79. KLEIN ET AL. *v.* O'BRIEN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 884 F. 3d 754.

No. 18–80. MELVIN *v.* O'ROURKE, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 714 Fed. Appx. 1002.

No. 18–82. COTMAN ET AL. *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 342 Ga. App. 569, 804 S. E. 2d 672.

No. 18–83. BUSCH ET AL. *v.* NAPPIER ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 571.

No. 18–85. STUART *v.* RYAN ET AL. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 232 So. 3d 418.

No. 18–87. SAMSON, TRUSTEE FOR THE HEIRS AND NEXT OF KIN OF SAMSON, DECEASED *v.* GORDON ET AL. Ct. App. Minn. Certiorari denied.

No. 18–90. COLONIAL SCHOOL DISTRICT *v.* RENA C. C. A. 3d Cir. Certiorari denied. Reported below: 890 F. 3d 404.

No. 18–91. PIZZINO *v.* NCL (BAHAMAS) LTD., DBA NORWEGIAN CRUISE LINE. C. A. 11th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 563.

No. 18–92. PERRY *v.* KRIEGMAN. C. A. 9th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 922.

No. 18–94. THOMAS *v.* DELMARVA POWER & LIGHT CO. C. A. 4th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 301.

No. 18–95. WENTZELL ET AL. *v.* BP AMERICA, INC., ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–100. DRANE *v.* SELLERS, WARDEN. Sup. Ct. Ga. Certiorari denied.

No. 18–101. EVERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 322.

No. 18–102. WHITE ET AL. *v.* FOSTER ET AL. Sup. Ct. N. H. Certiorari denied.

No. 18–103. VAN *v.* LANGUAGE LINE LLC ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 349.

No. 18–104. TUERK *v.* DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 18–105. SABENIANO *v.* CITIBANK, N. A., ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–111. BARRETT *v.* MINOR. Sup. Ct. Va. Certiorari denied.

No. 18–117. GRIMM *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 458 Md. 602, 183 A. 3d 167.

No. 18–120. HERNANDEZ *v.* BAILEY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 298.

No. 18–126. GRIMSTAD *v.* DESCHUTES COUNTY, OREGON, ET AL. Sup. Ct. Ore. Certiorari denied.

No. 18–130. KARR *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 96 N. E. 3d 126.

No. 18–131. LYNDON *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 816.

No. 18–133. MOORE *v.* BRAMWELL ET AL. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied.

No. 18–134. PERKINS *v.* US AIRWAYS, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 188.

No. 18–135. New Products Corp. *v.* Tibble et al. C. A. 6th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 379.

No. 18–137. Hunter *v.* District of Columbia. Ct. App. D. C. Certiorari denied. Reported below: 185 A. 3d 715.

No. 18–139. Freeman *v.* North Carolina Department of Health and Human Services. Sup. Ct. N. C. Certiorari denied. Reported below: 370 N. C. 690, 811 S. E. 2d 597.

No. 18–141. Baroni *v.* CIT Bank N. A., fka OneWest Bank FSB et al. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 773.

No. 18–143. Bart *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 374.

No. 18–144. Baranski *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 880 F. 3d 951.

No. 18–145. Alston *v.* South Carolina. Sup. Ct. S. C. Certiorari denied. Reported below: 422 S. C. 270, 811 S. E. 2d 747.

No. 18–146. Marcoski *v.* Rath. C. A. 11th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 910.

No. 18–154. Rooks *v.* Brewer, Warden. C. A. 6th Cir. Certiorari denied.

No. 18–155. Brady *v.* Associated Press Telecom et al. C. A. 2d Cir. Certiorari denied. Reported below: 714 Fed. Appx. 62.

No. 18–159. Clack *v.* United Services Automobile Assn. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 356.

No. 18–160. Kinney *v.* United States Court of Appeals for the Ninth Circuit. C. A. 9th Cir. Certiorari denied.

No. 18–163. Teufel *v.* Northern Trust Co. et al. C. A. 7th Cir. Certiorari denied. Reported below: 887 F. 3d 799.

No. 18–174. Applied Underwriters Captive Risk Assurance Co., Inc. *v.* Citizens of Humanity, LLC, et al. Sup. Ct.

Neb. Certiorari denied. Reported below: 299 Neb. 545, 909 N. W. 2d 614.

No. 18–175. Applied Underwriters, Inc., et al. *v.* Citizens of Humanity, LLC, et al. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied. Reported below: 17 Cal. App. 5th 806, 226 Cal. Rptr. 3d 1.

No. 18–178. SGK Properties, L. L. C., et al. *v.* U. S. Bank N. A. et al. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 3d 933.

No. 18–179. Goodman *v.* Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 229 So. 3d 366.

No. 18–180. Tirrez *v.* Commission for Lawyer Discipline et al. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 18–186. Silva-Ramirez *v.* Hospital Espanol Auxilio Mutuo de Puerto Rico, Inc., et al. C. A. 1st Cir. Certiorari denied.

No. 18–189. Smartflash LLC *v.* Samsung Electronics America, Inc., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 718 Fed. Appx. 985.

No. 18–190. Queen's University at Kingston *v.* Samsung Electronics Co., Ltd., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 708 Fed. Appx. 680.

No. 18–191. Cassidy *v.* Massachusetts. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 479 Mass. 527, 96 N. E. 3d 691.

No. 18–193. Cannici *v.* Village of Melrose Park, Illinois, et al. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 3d 476.

No. 18–196. Supeno et al. *v.* Secretary, Vermont Agency of Natural Resources. Sup. Ct. Vt. Certiorari denied. Reported below: 2018 VT 30, 207 Vt. 108, 185 A. 3d 1264.

No. 18–199. Liang *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 927.

No. 18–202. Haynes Timberland, Inc. *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 18–208. New Products Corp. et al. *v.* Dickinson Wright, PLLC, et al. C. A. 6th Cir. Certiorari denied. Reported below: 890 F. 3d 244.

No. 18–216. Paixao et al. *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 3d 1203.

No. 18–219. Sewell *v.* Fidelity National Financial, Inc. C. A. 4th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 212.

No. 18–221. Mouton *v.* Arkansas. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 187, 547 S. W. 3d 76.

No. 18–226. Zahnd *v.* Office of Chief Disciplinary Counsel, Supreme Court of Missouri. Sup. Ct. Mo. Certiorari denied.

No. 18–236. Weddle *v.* Nutzman et al. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 596.

No. 18–264. New World International, Inc., et al. *v.* Ford Global Technologies, LLC, et al. C. A. Fed. Cir. Certiorari denied. Reported below: 714 Fed. Appx. 1021.

No. 18–5001. Hancock *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 18–5005. Dawkins *v.* Eckert, Superintendent, Wende Correctional Facility. C. A. 2d Cir. Certiorari denied.

No. 18–5006. Deuman *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 18–5007. Tua *v.* California. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied. Reported below: 18 Cal. App. 5th 1136, 228 Cal. Rptr. 3d 143.

No. 18–5009. Drummond *v.* Sessions, Attorney General. C. A. 2d Cir. Certiorari denied.

No. 18–5010. Chang *v.* Andrews. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 18–5011. Cardona *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 275.

No. 18–5012. Lightbourne *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 285.

No. 18–5013. LANGLEY *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 716 Fed. Appx. 960.

No. 18–5014. ALLEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5015. APONTE *v.* TICE, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5016. BROWN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 722.

No. 18–5018. QUINCE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 241 So. 3d 58.

No. 18–5019. SENIW *v.* CONNECTICUT GENERAL ASSEMBLY ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–5021. BROWN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 289.

No. 18–5022. WATSON, AKA SEUI, ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 3d 782.

No. 18–5023. EDWARDS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 717 Fed. Appx. 166.

No. 18–5024. DIXON *v.* LEGRAND, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 679 Fed. Appx. 571.

No. 18–5027. WRIGHT *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5028. EDLIND *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 887 F. 3d 166.

No. 18–5029. BLACK *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 522 S. W. 3d 2.

No. 18–5031. WALLACE *v.* KAUFFMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5032. VASQUEZ *v.* CITY OF READING, PENNSYLVANIA, ET AL. Sup. Ct. Pa. Certiorari denied.

No. 18–5033. DAWSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 991.

No. 18–5034. ANDERSON *v.* NORTH DAKOTA ET AL. C. A. 8th Cir. Certiorari denied.

No. 18–5035. GRAZZINI-RUCKI *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 18–5037. HAMILTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 276.

No. 18–5040. SIRECI *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 916.

No. 18–5041. ROBINSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5042. SLINEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 310.

No. 18–5043. ST. AMOUR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 3d 1009.

No. 18–5044. ANGULO RIASCOS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5045. BROWN *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 714 Fed. Appx. 199.

No. 18–5046. MAGNO ZAMORA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5047. TUTT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 766.

No. 18–5048. TAYLOR *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 18–5049. WELLS *v.* PETERS ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5050. WHITNEY *v.* TRUMP, PRESIDENT OF THE UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5051. DERRICK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 231.

No. 18–5053. LOPEZ-MARTINEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 992.

No. 18–5054. JENNINGS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 909.

No. 18–5055. STEVENS *v.* VANNOY, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 313.

No. 18–5056. BOUZIDEN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 653.

No. 18–5057. BAGBY *v.* HYATTE, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 18–5058. DRAKE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 780.

No. 18–5059. BEDELL *v.* JORDAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5060. FOTOPOULOS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 911.

No. 18–5061. HORNE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5062. HUNTER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5063. BYERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–5065. ANTONIO RODRIGUEZ *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 918.

No. 18–5066. RAY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–5067. STUHR *v.* WHITE, SUPERINTENDENT, WASHINGTON CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 18–5068. TAYLOR *v.* LAMANNA, ACTING SUPERINTENDENT, BEDFORD HILLS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 18–5069. USCHOCK *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 711 Fed. Appx. 81.

No. 18–5072. EVANS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 684.

No. 18–5073. CRUZ-COLOCHO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 381.

No. 18–5074. MCLEAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 702 Fed. Appx. 81.

No. 18–5075. OKAFOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 352.

No. 18–5076. MELOT *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 5th Cir. Certiorari denied.

No. 18–5077. MCCOY *v.* MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 286.

No. 18–5078. PACE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 912.

No. 18–5079. MICHAUD *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 790, 415 P. 3d 717.

No. 18–5080. PITTMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 197.

No. 18–5081. MORTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 242.

No. 18–5082. SEDA *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 288.

No. 18–5083. FULTON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 837 F. 3d 281.

No. 18–5084. BURNS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 234 So. 3d 555.

No. 18–5085. WILLIAMS *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 371 N. C. 111, 812 S. E. 2d 852.

No. 18–5086. UZZLE *v.* FLEMING, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 611.

No. 18–5087. WILSON *v.* PARAMO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5088. JOHNSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 232.

No. 18–5089. BEAMON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 221.

No. 18–5091. FOSTER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 235 So. 3d 294.

No. 18–5093. CATERBONE *v.* TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5094. SHERRY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5095. DAVIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 318.

No. 18–5096. TIBBETTS *v.* KASICH, GOVERNOR OF OHIO, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 3d 447.

No. 18–5097. TORRES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 379.

No. 18–5098. WILLIAMS *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5099. WILLIAMS *v.* LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 353.

No. 18–5100. RAHIM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 428.

No. 18–5102. ROBINSON *v.* SHAW, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–5103. RIEBER *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 265 So. 3d 318.

No. 18–5104. Reed *v.* Garman, Superintendent, State Correctional Institution at Rockview, et al. Sup. Ct. Pa. Certiorari denied.

No. 18–5106. Stewart *v.* Holder et al. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 120.

No. 18–5107. Quinn *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 18–5108. Davila-Reyes *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 18–5109. Rankins *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 162145–U.

No. 18–5110. Spraggins *v.* Washburn, Warden. C. A. 6th Cir. Certiorari denied.

No. 18–5111. Gregory *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 18–5112. Robinson *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 405.

No. 18–5113. Hester *v.* Sprayberry. C. A. 11th Cir. Certiorari denied.

No. 18–5114. Faison *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 252.

No. 18–5115. Hayward *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 646.

No. 18–5116. Gibbs *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 690 Fed. Appx. 130.

No. 18–5117. Frazier *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 80.

No. 18–5119. King *v.* King. Ct. Sp. App. Md. Certiorari denied.

No. 18–5120. Nelson *v.* Berryhill, Acting Commissioner of Social Security. C. A. 1st Cir. Certiorari denied.

No. 18–5122. Overton *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 238.

No. 18–5123. PARKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 289.

No. 18–5124. PIETRI *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 235.

No. 18–5125. FOSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 220.

No. 18–5126. HAMILTON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 18–5127. BLACK *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied.

No. 18–5129. TREJO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 396.

No. 18–5130. WATFORD *v.* FOSSUM ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 719 Fed. Appx. 24.

No. 18–5131. TU MY TONG *v.* NEW MEXICO ET AL. Ct. App. N. M. Certiorari denied.

No. 18–5133. HOPSON *v.* STARK COUNTY, OHIO, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5134. FOWLKES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5136. ILLARRAMENDI *v.* SECURITIES AND EXCHANGE COMMISSION ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 703 Fed. Appx. 39.

No. 18–5138. PENNINGTON *v.* ARKANSAS GAME AND FISH COMMISSION. C. A. 8th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 609.

No. 18–5139. RUNNELS *v.* BORDELON, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 409.

No. 18–5140. M. P. F. *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 268 So. 3d 626.

No. 18–5141. FREDERIKSEN *v.* TEXAS. Ct. App. Tex., 3d Dist. Certiorari denied.

No. 18–5142. HEXIMER *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied.

No. 18–5143. GRAHAM *v.* HAINSWORTH, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5144. GUTIERREZ-JARAMILLO *v.* WARDEN, FEDERAL CORRECTIONAL INSTITUTION, GILMER. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 311.

No. 18–5145. BENNETT *v.* WOLFE ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 146.

No. 18–5146. TOGHILL *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 3d 547.

No. 18–5148. BLALOCK *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2017-Ohio-2658.

No. 18–5149. CUBERO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5150. CORREA-DIAZ *v.* SESSIONS, ATTORNEY GENERAL. C. A. 7th Cir. Certiorari denied. Reported below: 881 F. 3d 523.

No. 18–5151. YAHNKE *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2018 ND 66, 908 N. W. 2d 134.

No. 18–5152. HOWARD *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 729 Fed. Appx. 181.

No. 18–5153. KNIFFLEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 406.

No. 18–5154. RAY *v.* JEFFERSON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 885.

No. 18–5155. QAZI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–5156. BATTIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 967.

No. 18–5158. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5159. GOLDEN *v.* CALDWELL, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–5161. WADDLETON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5162. WELLS *v.* POTTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5163. THIER *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 241 So. 3d 851.

No. 18–5165. WILSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 18–5166. TAYLOR *v.* CLARK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5167. BROWN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 18–5169. DAVIDSON *v.* FEDERAL BUREAU OF PRISONS. C. A. 6th Cir. Certiorari denied.

No. 18–5170. KHAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 236.

No. 18–5171. LOPEZ-MENDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 507.

No. 18–5172. MARQUEZ *v.* FILSON, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 924.

No. 18–5173. MEDINA GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 3d 205.

No. 18–5174. GRIFFIN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 236 So. 3d 237.

No. 18–5177. MAJORS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 434.

No. 18–5178. BALTIMORE *v.* BUCK. Sup. Ct. Ala. Certiorari denied.

No. 18–5179. JOHNSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 240 So. 3d 630.

No. 18–5180. WEN LIU *v.* UNIVERSITY OF MIAMI SCHOOL OF MEDICINE. C. A. 11th Cir. Certiorari denied. Reported below: 693 Fed. Appx. 793.

No. 18–5183. HOLMES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5185. ZIVOT *v.* SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY, ET AL. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 18–5186. THERESA *v.* IANCU, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 720 Fed. Appx. 634.

No. 18–5187. TAVARES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–5188. WILKS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 300.

No. 18–5189. GREEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 141.

No. 18–5192. MCLAUGHLIN *v.* OHIO DEPARTMENT OF JOB & FAMILY SERVICES. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied.

No. 18–5193. BROWN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–5194. BRANK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 527.

No. 18–5195. ALVAREZ *v.* SPEARMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5196. CORBIN *v.* FEDERAL EXPRESS, DBA FEDEX. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 319.

No. 18–5197. DIXIT *v.* DIXIT. Ct. App. Ga. Certiorari denied.

No. 18–5198. JONES *v.* GRAND CANYON UNIVERSITY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 703 Fed. Appx. 612.

No. 18–5199. LEWIS *v.* HADARI. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–5200. KRUSKAL *v.* MELTZER ET AL. Ct. App. N. M. Certiorari denied.

No. 18–5201. LOWE *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–5202. KNOWLES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5203. MUJAHID *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 297.

No. 18–5204. LUIS MORALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 839.

No. 18–5205. LITTLES *v.* ROUNDTREE. Sup. Ct. Fla. Certiorari denied.

No. 18–5206. OATMAN *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5207. MONTOYA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–5210. ESPINOZA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 267.

No. 18–5211. TAYLOR B. *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 18–5212. BLANC *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 3d 1318.

No. 18–5214. MCGINLEY *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 174 A. 3d 47.

No. 18–5215. CONTRERAS MEJIA *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5216. MARTIN *v.* MCLAUGHLIN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–5218. ROBERTSON *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2016–1742 (La. 4/6/18), 239 So. 3d 268.

No. 18–5219. CAMPBELL *v.* MENDEZ ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 683 Fed. Appx. 575.

No. 18–5220. LIBBY *v.* BAKER, WARDEN, ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 973, 409 P. 3d 889.

No. 18–5221. GUIZAMANO-CORTES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 984.

No. 18–5224. COSTELON *v.* NEW MEXICO. C. A. 10th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 696.

No. 18–5225. SAVAGE, AKA KAMARA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 885 F. 3d 212.

No. 18–5226. LUGO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–5227. HARRIS *v.* ESTES, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5229. NEUMAN *v.* NOOTH. C. A. 9th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 613.

No. 18–5231. ODOM *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–5233. ALEJANDRO RADILLO ET AL. *v.* NDOH, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 918.

No. 18–5235. THOMAS *v.* CHANDRAN. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 263.

No. 18–5237. BLAND *v.* GELLMAN, BRYDGES & SCHROFF, ET AL. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 151 App. Div. 3d 1484, 58 N. Y. S. 3d 225.

No. 18–5238. WRIGHT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 235.

No. 18–5239. TERRELL *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2016-Ohio-4563.

No. 18–5240. WARD *v.* CARTER, COMMISSIONER, INDIANA DEPARTMENT OF CORRECTION, ET AL. Sup. Ct. Ind. Certiorari denied. Reported below: 90 N. E. 3d 660.

No. 18–5241. MATURINO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 887 F. 3d 716.

No. 18–5242. MARTIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 353.

No. 18–5243. JACOB *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5244. JENSEN *v.* MADDEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5245. RIOS-RAMOS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–5246. RIVERS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–5247. MCCRAY *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5248. PAYNE, AKA POWER *v.* PUBLISHERS CLEARING HOUSE, INC., ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5249. THOMAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 700.

No. 18–5250. MARINO *v.* DEPARTMENT OF JUSTICE ET AL. C. A. D. C. Cir. Certiorari denied.

No. 18–5253. DECIANCIO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 333.

No. 18–5254. YOUNG *v.* OREGON DEPARTMENT OF CORRECTIONS ET AL. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 853, 406 P. 3d 619.

No. 18–5255. GIBSON *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 126.

No. 18–5256. MORAGNE-EL *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 179 A. 3d 613.

No. 18–5257. MELVIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 240 So. 3d 677.

No. 18–5258. MILLER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–5259. NOWLIN *v.* SHANNON ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–5260. MCGLOCKLIN *v.* BLANKENSHIP ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5261. PATTERSON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 18–5264. JENKINS ET AL. *v.* WMC MORTGAGE ET AL. Ct. App. D. C. Certiorari denied. Reported below: 184 A. 3d 851.

No. 18–5266. FERGUSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 745.

No. 18–5267. WATERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 883 F. 3d 1022.

No. 18–5269. ST. HUBERT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 883 F. 3d 1319.

No. 18–5270. DEEM *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5272. BEN-ARI *v.* UNITED STATES; and BEN-ARI *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 18–5273. WILSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 209.

No. 18–5274. VEGA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 905.

No. 18–5275. COUNTS *v.* WILSON, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 779.

No. 18–5276. CLARK *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 18–5278. COLLINGS *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 543 S. W. 3d 1.

No. 18–5279. HAYHOE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 179.

No. 18–5280. LANIER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 3d 141.

No. 18–5281. MOSLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 267.

No. 18–5282. MOSS *v.* WORKERS' COMPENSATION APPEALS BOARD ET AL. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 18–5283. MCGOWAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 18–5284. SMALL *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied.

No. 18–5286. SULEITOPA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 233.

No. 18–5287. SALAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5290. LONG *v.* ROBINSON, ADMINISTRATOR, NORTHERN STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5291. BALLARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 757.

No. 18–5292. ANGELES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 624.

No. 18–5293. AUTOBEE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 701 Fed. Appx. 710.

No. 18–5294. PRIDGEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 171.

No. 18–5295. PEDRAZA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5297. Robinson *v.* Vannoy, Warden. C. A. 5th Cir. Certiorari denied.

No. 18–5299. Smith *v.* North Carolina. Ct. App. N. C. Certiorari denied. Reported below: 257 N. C. App. 389, 808 S. E. 2d 621.

No. 18–5300. Robinson *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 227.

No. 18–5301. Clay *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 883 F. 3d 1056.

No. 18–5302. Dixon *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 334.

No. 18–5304. Sanchez Lopez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 445.

No. 18–5305. Johnson *v.* Copenhaver, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 756.

No. 18–5307. Hulen *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 3d 1015.

No. 18–5308. Harris *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 873.

No. 18–5309. McLain *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 171.

No. 18–5310. Rhodes *v.* Baker, Warden, et al. C. A. 11th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 947.

No. 18–5311. Reid *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 732 Fed. Appx. 14.

No. 18–5312. Rowe *v.* Clark, Superintendent, State Correctional Institution at Albion, et al. C. A. 3d Cir. Certiorari denied.

No. 18–5315. Chambers *v.* Green Tree Servicing, L. L. C., et al. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 439.

No. 18–5316. Vaughan *v.* Vaughan et al. Ct. App. N. C. Certiorari denied. Reported below: 256 N. C. App. 398, 806 S. E. 2d 80.

No. 18–5317. VILLANUEVA-CARDENAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 205.

No. 18–5318. TERRY *v.* STONEBREAKER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 236.

No. 18–5319. TOLBERT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 319.

No. 18–5320. MACDONALD *v.* SINGER ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 18–5324. LAOUTARIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 215.

No. 18–5325. LASHER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–5326. LLOYD *v.* MOATS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 490.

No. 18–5327. MAKDESSI *v.* FIELDS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 148.

No. 18–5328. ANDERSON *v.* LARSEN. Sup. Ct. Wash. Certiorari denied. Reported below: 190 Wash. 2d 1013, 415 P. 3d 1189.

No. 18–5329. LOCKHART *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 743.

No. 18–5330. KOKAL *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–5332. KEMP *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 368.

No. 18–5333. CARMELL *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 295.

No. 18–5334. CRAWFORD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5335. MIN KWON *v.* ERIE INSURANCE. Sup. Ct. Va. Certiorari denied.

No. 18–5336. LOTT *v.* WARREN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5337. JOHNSON *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5338. KING *v.* ERDOS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5339. JAMES *v.* SNYDER, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 789.

No. 18–5340. WILSON *v.* FEDERAL CORRECTIONAL INSTITUTION AT CUMBERLAND ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 199.

No. 18–5341. WILSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–5342. WILSON *v.* DELTA AIRLINES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 90.

No. 18–5343. WILSON *v.* MCKEESPORT POLICE DEPARTMENT ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 92.

No. 18–5344. WILSON *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 94.

No. 18–5345. WILSON *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 95.

No. 18–5346. WILSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–5347. COSTIC *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2017 IL App (3d) 140218–U.

No. 18–5348. CLACK *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 18–5349. YOUNG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 803.

No. 18–5350. CRIDER *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5351. BORHAN *v.* LIZARRAGA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5353. BERRY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 732 Fed. Appx. 127.

No. 18–5354. BARWICK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 927.

No. 18–5355. SANDERS *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5356. CIRIA *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 18–5358. REYNOLDS *v.* STEWART, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5360. CLINTON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 153 Ohio St. 3d 422, 2017-Ohio-9423, 108 N. E. 3d 1.

No. 18–5361. SAYED *v.* TRANI, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 691.

No. 18–5362. QAZI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 691.

No. 18–5363. RENDON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 712.

No. 18–5364. AUSTIN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 760.

No. 18–5365. BRUNO *v.* CITY OF SCHENECTADY, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 727 Fed. Appx. 717.

No. 18–5366. MARTIN *v.* TRIERWEILER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 443.

No. 18–5367. JONES *v.* SCHWARZENEGGER, FORMER GOVERNOR OF CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 523.

No. 18–5368. WERDENE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 883 F. 3d 204.

No. 18–5369. TAAL *v.* ST. MARY'S BANK ET AL. C. A. 1st Cir. Certiorari denied.

No. 18–5370. JURESIC *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 18–5371. ELLIS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2018 IL App (1st) 140613–U.

No. 18–5372. BAGWELL *v.* SOUTHERN NATIONAL ASSETS, LLC. Ct. App. Ga. Certiorari denied. Reported below: 341 Ga. App. XXIII.

No. 18–5373. SYKES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 3d 488.

No. 18–5374. HYMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 884 F. 3d 496.

No. 18–5375. HENRIQUEZ *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 1, 406 P. 3d 748.

No. 18–5377. HUTCHINSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 243 So. 3d 880.

No. 18–5378. CHAVEZ-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 708.

No. 18–5379. FREEMAN *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 513.

No. 18–5380. LOPEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 890 F. 3d 332.

No. 18–5382. FIEDLER *v.* BRINDLEY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 396.

No. 18–5383. SHUMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5385. BELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 217.

No. 18–5386. ALEXANDER, AKA KEENAN *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. Reported below: 233 N. J. 132, 183 A. 3d 903.

No. 18–5388. ROBERTS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 881 F. 3d 1049.

No. 18–5389. RODGERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 217.

No. 18–5390. RAYYAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 3d 436.

No. 18–5392. CARTER *v.* BLACKMON, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 268.

No. 18–5394. PEEBLES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 883 F. 3d 1062.

No. 18–5396. MCMILLAN *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 358 So. 3d 1154.

No. 18–5397. PARRA-RAMOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 403.

No. 18–5404. COOPER *v.* COURT OF APPEAL OF CALIFORNIA, FIRST APPELLATE DISTRICT, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 18–5405. PIMENTEL-SOTO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 99.

No. 18–5406. MCDANIEL *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 176 A. 3d 175.

No. 18–5407. MITROVIC *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 890 F. 3d 1217.

No. 18–5408. SERNA *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–5414. DEICHERT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–5416. HAMMOND *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2017-Ohio-8574, 99 N. E. 3d 1262.

No. 18–5419. GRIFFIN *v.* DINAPOLI. C. A. 2d Cir. Certiorari denied.

No. 18–5421. GAINES *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 289.

No. 18–5423. SEUNGJIN KIM *v.* UNITED STATES CUSTOMS AND BORDER PROTECTION. C. A. D. C. Cir. Certiorari denied. Reported below: 729 Fed. Appx. 10.

No. 18–5426. RIVERO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 3d 618.

No. 18–5427. SAINT LOUIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 3d 145.

No. 18–5430. BENNETT ET UX. *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 577.

No. 18–5431. MORRIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 3d 405.

No. 18–5433. ATKINS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–5436. TAYLOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 740.

No. 18–5438. TULIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 3d 145.

No. 18–5439. LONGORIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 874 F. 3d 1278.

No. 18–5444. BUCHANAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 717.

No. 18–5445. PYLES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 1320.

No. 18–5452. REID *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 281.

No. 18–5456. KACHINA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 587.

No. 18–5458. TAYLOR *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 418.

No. 18–5461. HENDERSON *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied.

No. 18–5462. SENIOR *v.* HAYNES, SUPERINTENDENT, STAFFORD CREEK CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 882.

No. 18–5466. WILSON *v.* OHIO. Ct. App. Ohio, 2d App. Dist., Montgomery County. Certiorari denied. Reported below: 2017-Ohio-8498.

No. 18–5467. WYCHE *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 232 So. 3d 1117.

No. 18–5469. DORTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5470. BOHLMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 425.

No. 18–5471. GABRIEL CONTRERAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 669.

No. 18–5473. CREDICO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 116.

No. 18–5474. GARCIA-HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 250.

No. 18–5480. LUSTER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5482. ZEPEDA-RAMIREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 803.

No. 18–5483. VANDEMERWE *v.* LANGFORD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5484. WASHINGTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–5488. JACKSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5490. LOWE *v.* VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 209.

No. 18–5497. JOHNSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 704.

No. 18–5500. Reynolds *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 18–5508. Darby *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 304.

No. 18–5510. Jones *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 18–5511. Tarvin *v.* Mississippi. Sup. Ct. Miss. Certiorari denied.

No. 18–5515. Salemi *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 18–5516. Galbreath *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 310.

No. 18–5519. Templeton *v.* Amsberry, Superintendent, Eastern Oregon Correctional Institution, et al. C. A. 9th Cir. Certiorari denied.

No. 18–5520. Sellers *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 309.

No. 18–5521. Antonio Ramos *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 329.

No. 18–5522. Ray *v.* Diaz, Acting Secretary, California Department of Corrections and Rehabilitation. C. A. 9th Cir. Certiorari denied.

No. 18–5524. Rochelle *v.* Vannoy, Warden. C. A. 5th Cir. Certiorari denied.

No. 18–5525. Jouette *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 360.

No. 18–5526. Lough *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 291.

No. 18–5527. Alejandro Chavez *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 3d 593.

No. 18–5528. Thurman *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 889 F. 3d 356.

No. 18–5532. Ruiz-Hernandez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 890 F. 3d 202.

No. 18–5533. SHANNON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 356.

No. 18–5535. SCHLIEVE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 434.

No. 18–5539. PELTO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5541. STEPP-ZAFFT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 327.

No. 18–5542. MAYER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5547. ESTRADA-CORRALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 409.

No. 18–5550. LOPEZ-PACHECO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 588.

No. 18–5552. VEGA-JIMENEZ, AKA HERNANDEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5554. TROCHE-ALVARADO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–5555. WOMACK *v.* ADAMS ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5556. BARNES *v.* LANDRY, ATTORNEY GENERAL OF LOUISIANA. C. A. 5th Cir. Certiorari denied.

No. 18–5559. EASTER *v.* AMSBERRY, SUPERINTENDENT, EASTERN OREGON CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 791.

No. 18–5561. NIEVES-GALARZA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 718 Fed. Appx. 159.

No. 18–5564. CURRY *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 703, 406 P. 3d 242.

No. 18–5565. EDWARDS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 175 A. 3d 356.

No. 18–5576. Asar, aka Gist *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 280.

No. 18–5585. Mackey *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 227.

No. 18–5587. Rosa *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 403.

No. 18–5588. Sanchez-Jara *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 889 F. 3d 418.

No. 18–5593. Mitchell *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 771.

No. 18–5598. Moore *v.* Stephan, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 300.

No. 18–5599. Chi *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 184.

No. 18–5601. Ramirez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 377.

No. 18–5604. Fidel Flores *v.* Montgomery, Acting Warden. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 273.

No. 18–5605. Beyer *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 3d 610.

No. 18–5606. Demirjian *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 888.

No. 18–5607. James *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 18–5613. Sykes *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 150023, 96 N. E. 3d 468.

No. 18–5614. Santiago *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 744 Fed. Appx. 135.

No. 18–5615. Chavira-Nunez *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 689 Fed. Appx. 896.

No. 18–5617. BARTUNEK *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5620. ZUNIGA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–5622. WALKER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5624. VILLA-SARIANA, AKA VILLA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 383.

No. 18–5630. EURE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 238.

No. 18–5636. SEARCY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 880 F. 3d 116.

No. 18–5638. PURNELL *v.* ST. MARY'S HOSPITAL ET AL. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 18–5640. LAUX *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied. Reported below: 890 F. 3d 666.

No. 18–5642. FEJFAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 621.

No. 18–5646. MARTIN *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 342 Ga. App. XXVI.

No. 18–5647. MARES *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2018 IL App (2d) 150565, 98 N. E. 3d 554.

No. 18–5651. SWOOPES *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 732.

No. 18–5653. BRAVEBULL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 896 F. 3d 897.

No. 18–5654. DANIELS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5658. BROWN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 614.

No. 18–5663. DALE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 503.

No. 18–5665. CABRERA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5667. BROWNE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 751.

No. 18–5673. SMALLS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 307.

No. 18–5675. PATE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 228.

No. 18–5678. PAUL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 885 F. 3d 1099.

No. 18–5679. O'BRIEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 738 Fed. Appx. 38.

No. 18–5680. MCGEE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 346.

No. 18–5682. ANDERSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 365.

No. 18–5684. VERDUZCO-RANGEL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 884 F. 3d 918.

No. 18–5685. PATTERSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5686. MUNDLE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 700 Fed. Appx. 70.

No. 18–5693. KAY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 750.

No. 18–5696. CROFT *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2018 IL App (1st) 150043, 100 N. E. 3d 577.

No. 18–5699. BOYD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 679.

No. 18–5701. AGUIAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–5706. ISLAS-HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 511.

No. 18–5708. ARNOLD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–5709. ANDERSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5710. AMOR *v.* UNITED STATES EX REL. PENA ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5715. SWEENEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 891 F. 3d 232.

No. 18–5717. SAVANH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 931.

No. 18–5721. LEVY *v.* PARRIS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 960.

No. 18–5725. THOMAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 723 Fed. Appx. 60.

No. 18–5729. DIAZ *v.* HURWITZ, DIRECTOR, FEDERAL BUREAU OF PRISONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 716 Fed. Appx. 98.

No. 18–5731. COX *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5732. LACONTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5736. MOSES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–5739. KINCHEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5744. CLARK *v.* BERRY, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5745. MOLINA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5748. MEEKS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5751. BURKE *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 302 Ga. 786, 809 S. E. 2d 765.

No. 18–5752. CAUSEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–5754. CAMPILLO RESTREPO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5756. BLEVINS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–5757. BERRY *v.* NICHOLSON, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 18–5759. CASTELLANOS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 3d 359.

No. 18–5766. JIAN-YUN DONG *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 180.

No. 18–5775. HOGAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 373.

No. 18–5776. PLACERES-CRUZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 297.

No. 18–5778. DEPRIEST *v.* BONDI, ATTORNEY GENERAL OF FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5780. CAPRA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 811.

No. 18–5788. DUTSCHKE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–5789. THOMPSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–5790. TEAUPA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–5795. ANTONIO IBARRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 336.

No. 18–5822. KEENE *v.* ILLINOIS. App. Ct. Ill., 5th Dist. Certiorari denied. Reported below: 2018 IL App (5th) 140553–U.

No. 18–5854. LAMBRIGHT *v.* ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 243 Ariz. 244, 404 P. 3d 646.

No. 17–1353. FORT PECK HOUSING AUTHORITY ET AL. *v.* DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 881 F. 3d 1181.

No. 17–1375. GERAWAN FARMING, INC. *v.* AGRICULTURAL LABOR RELATIONS BOARD. Sup. Ct. Cal. Motion of National Federation of Independent Business Small Business Legal Center et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 3 Cal. 5th 1118, 405 P. 3d 1087.

No. 17–1397. SPENCER *v.* ABBOTT ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 731 Fed. Appx. 731.

No. 17–1438. NOBLE ENERGY, INC. *v.* CONOCOPHILLIPS CO. Sup. Ct. Tex. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 532 S. W. 3d 771.

No. 17–1449. ARIZONA *v.* RUSHING. Sup. Ct. Ariz. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 243 Ariz. 212, 404 P. 3d 240.

No. 17–1478. JONES *v.* LIFE INSURANCE COMPANY OF NORTH AMERICA ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 716 Fed. Appx. 584.

No. 17–1487. COOK ET AL. *v.* HARDING ET AL. C. A. 9th Cir. Motions of Concerned United Birthparents, Inc., et al.; American Association of Pro-Life Obstetricians & Gynecologists et al.; and 10 Feminist Academics and Advocates for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 879 F. 3d 1035.

No. 17–1592. MAKAH INDIAN TRIBE *v.* QUILEUTE INDIAN TRIBE ET AL. C. A. 9th Cir. Motion of United Catcher Boats for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 873 F. 3d 1157.

No. 17–1602. PICKARD *v.* DEPARTMENT OF JUSTICE. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the

consideration or decision of this petition. Reported below: 713 Fed. Appx. 609.

No. 17–1616. Regeneron Pharmaceuticals, Inc. *v.* Merus N. V. C. A. Fed. Cir. Motion of Seven Chicago Patent Lawyers for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 864 F. 3d 1343.

No. 17–1633. Children's Hospital Los Angeles et al. *v.* N. L., a Minor, By and Through his Guardian ad Litem, Arce. C. A. 9th Cir. Motion of California Hospital Association et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 711 Fed. Appx. 433.

No. 17–1638. Sanchez et al. *v.* Young County, Texas, et al. C. A. 5th Cir. Motion of National Alliance on Mental Illness of Texas et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 866 F. 3d 274.

No. 17–1669. Promega Corp. *v.* Life Technologies Corp. et al. C. A. Fed. Cir. Certiorari denied. The Chief Justice took no part in the consideration or decision of this petition. Reported below: 875 F. 3d 651.

No. 17–1698. Pacetta, LLC, et al. *v.* Town of Ponce Inlet, Florida. Dist. Ct. App. Fla., 5th Dist. Motion of Cato Institute et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 226 So. 3d 303.

No. 17–6853. Paracha *v.* Trump, President of the United States, et al. C. A. D. C. Cir. Certiorari denied. Justice Gorsuch took no part in the consideration or decision of this petition. Reported below: 697 Fed. Appx. 703.

No. 17–7974. Williams *v.* Jarvis, Warden. C. A. 11th Cir. Certiorari denied. Justice Kagan took no part in the consideration or decision of this petition.

No. 17–8457. Robinson *v.* United States. C. A. 10th Cir. Certiorari denied. Justice Gorsuch took no part in the consideration or decision of this petition. Reported below: 720 Fed. Appx. 946.

No. 17–8480. Couchman *v.* United States. C. A. 10th Cir. Certiorari denied. Justice Gorsuch took no part in the consid-

eration or decision of this petition. Reported below: 720 Fed. Appx. 501.

No. 17–8752. OLIVER *v.* LINK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 17–9086. WADE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 719 Fed. Appx. 822.

No. 17–9100. KLEINMAN *v.* UNITED STATES. C. A. 9th Cir. Motion of Fully Informed Jury Association for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 880 F. 3d 1020.

No. 17–9101. DECARLO *v.* TRUE, WARDEN. C. A. 7th Cir. Certiorari before judgment denied.

No. 17–9115. GHAILANI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR and JUSTICE GORSUCH took no part in the consideration or decision of this petition.

No. 17–9123. GREGORY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 17–9170. SAFFORD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 707 Fed. Appx. 571.

No. 17–9369. STUCKEY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 878 F. 3d 62.

No. 17–9374. CARTER *v.* KANE ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 717 Fed. Appx. 105.

No. 17–9568. ADAMS *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari before judgment denied.

No. 18–8. COHEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 685 Fed. Appx. 609.

No. 18–17. KEISTER *v.* BELL ET AL. C. A. 11th Cir. Motion of Alliance Defending Freedom et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 879 F. 3d 1282.

No. 18–97. LIU, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO LIU, DECEASED *v.* JANSSEN RESEARCH & DEVELOPMENT, LLC. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 18–170. GENTRY *v.* TENNESSEE ET AL. C. A. 6th Cir. Motion of petitioner to expedite consideration of petition for writ of certiorari denied. Certiorari denied.

No. 18–5357. REDIFER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 728 Fed. Appx. 804.

No. 18–5381. HANDY *v.* JOHNSON & JOHNSON ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 724 Fed. Appx. 218.

No. 18–5428. BARRAQUIAS *v.* WILKIE, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 18–5536. PACHECO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 884 F. 3d 1031.

No. 18–5538. GIESWEIN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE KAGAN and JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 887 F. 3d 1054.

No. 18–5578. AKEL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 18–5644. DELVA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 704 Fed. Appx. 8.

Rehearing Denied

No. 17–1532. KRAMER *v.* UNITED STATES ET AL., 584 U. S. 1034;

No. 17–6892. WILFORD *v.* UNITED STATES, 585 U. S. 1033;

No. 17–7141. YOUNG *v.* OCASIO, WARDEN, 585 U. S. 1019;

No. 17–7633. DEVLIN *v.* MONTANA, 584 U. S. 907;

No. 17–7830. IN RE ALDRIDGE ET UX., 583 U. S. 1178;

No. 17–7885. GRIFFIN ET AL. *v.* HESS CORP., AKA AMERADA PETROLEUM CORP., ET AL., 584 U. S. 910;

No. 17–8230. WEST *v.* BERGHUIS, WARDEN, 584 U. S. 1005;

No. 17–8231. WHEELER *v.* DAVIS, 584 U. S. 995;

No. 17–8319. DOREMUS *v.* BERRYHILL, DEPUTY COMMISSIONER FOR OPERATIONS, SOCIAL SECURITY ADMINISTRATION, 584 U. S. 1006;

No. 17–8444. FLORES GONZALEZ *v.* FLORIDA ET AL., 584 U. S. 1017;

No. 17–8471. BLAIR *v.* YUM! BRANDS, INC., ET AL., 585 U. S. 1006;

No. 17–8534. STARKS *v.* PARBALL CORP., DBA BALLY'S LAS VEGAS, 584 U. S. 1037;

No. 17–8627. ARLOTTA *v.* COOK MOVING SYSTEM, INC., ET AL., 585 U. S. 1026;

No. 17–8653. MABRY *v.* VIRGINIA, 584 U. S. 1017;

No. 17–8840. JOHNSTON *v.* UNITED STATES, 584 U. S. 1039; and

No. 17–8975. BUXTON *v.* ESTOCK, ACTING SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MERCER, ET AL., 585 U. S. 1023. Petitions for rehearing denied.

No. 17–1321. GRANTON *v.* WASHINGTON STATE LOTTERY, 584 U. S. 951;

No. 17–7074. CARTER *v.* LABOR READY MID-ATLANTIC, INC., ET AL., 583 U. S. 1128; and

No. 17–8938. GILLS *v.* UNITED STATES, 585 U. S. 1009. Motions for leave to file petitions for rehearing denied.

OCTOBER 5, 2018

Dismissal Under Rule 46

No. 18–114. ROLLYSON *v.* O'NEAL ET AL. C. A. 4th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 729 Fed. Appx. 254.

OCTOBER 9, 2018*

Certiorari Granted—Vacated and Remanded

No. 17–1428. NIANG ET AL. *v.* TOMBLINSON ET AL. C. A. 8th Cir. Certiorari granted, judgment of the United States Court of Appeals for the Eighth Circuit vacated, and case remanded to that court with instructions to direct the District Court to dismiss the case as moot. See *United States* v. *Munsingwear, Inc.*, 340 U. S. 36 (1950). Reported below: 879 F. 3d 870.

No. 17–8381. FRAZIER *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Sessions* v. *Dimaya*, 584 U. S. 148 (2018). Reported below: 878 F. 3d 508.

Miscellaneous Orders

No. 18A335. BRAKEBILL ET AL. *v.* JAEGER, NORTH DAKOTA SECRETARY OF STATE. Application to vacate the stay entered by the United States Court of Appeals for the Eighth Circuit on September 24, 2018, presented to JUSTICE GORSUCH, and by him referred to the Court, denied.

JUSTICE GINSBURG, with whom JUSTICE KAGAN joins, dissenting.

I would grant the application to vacate the Eighth Circuit's stay because last-minute "[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls." *Purcell* v. *Gonzalez*, 549 U. S. 1, 4–5 (2006) (*per curiam*). The risk of voter confusion appears severe here because the injunction against requiring residential-address identification was in force during the

*JUSTICE KAVANAUGH took no part in the consideration or decision of the orders announced on this date.

primary election and because the Secretary of State's website announced for months the ID requirements as they existed under that injunction. Reasonable voters may well assume that the IDs allowing them to vote in the primary election would remain valid in the general election. If the Eighth Circuit's stay is not vacated, the risk of disfranchisement is large. The Eighth Circuit observed that voters have a month to "adapt" to the new regime. But that observation overlooks specific factfindings by the District Court: (1) 70,000 North Dakota residents—almost 20% of the turnout in a regular quadrennial election—lack a qualifying ID; and (2) approximately 18,000 North Dakota residents also lack supplemental documentation sufficient to permit them to vote without a qualifying ID. Although the unchallenged portion of the injunction permitting the use of more informal supplemental documents somewhat lessens this concern, that relief, by itself, scarcely cures the problem given the all too real risk of grand-scale voter confusion. True, an order by this Court vacating the stay would be yet another decision that disrupts the status quo as the election draws ever closer. But the confusion arising from vacating the stay would at most lead to voters securing an additional form of ID. That inconvenience pales in comparison to the confusion caused by the Eighth Circuit's order, which may lead to voters finding out at the polling place that they cannot vote because their formerly valid ID is now insufficient.

No. 18M39. STRONG *v.* BURT, WARDEN;

No. 18M40. PFEFFER *v.* WELLS FARGO ADVISORS, LLC, ET AL.;

No. 18M41. WILLIAMS *v.* COX, JUDGE, COURT OF APPEAL OF LOUISIANA, SECOND CIRCUIT, ET AL.;

No. 18M45. ADAMS *v.* UNITED STATES;

No. 18M46. MOSS *v.* POLLARD, WARDEN;

No. 18M48. KILPATRICK *v.* KAMKAR; and

No. 18M49. SYLINCE *v.* FLORIDA. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M42. LASCHKEWITSCH *v.* AMERICAN NATIONAL LIFE INSURANCE CO.;

No. 18M43. WAIRI *v.* UNITED STATES; and

No. 18M44. JOHNSON *v.* UNITED STATES. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 18M47. RUIZ *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 16–1094. REPUBLIC OF SUDAN *v.* HARRISON ET AL. C. A. 2d Cir. [Certiorari granted, 585 U. S. 1015.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 16–1498. WASHINGTON STATE DEPARTMENT OF LICENSING *v.* COUGAR DEN, INC. Sup. Ct. Wash. [Certiorari granted, 585 U. S. 1015.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–419. DAWSON ET UX. *v.* STEAGER, WEST VIRGINIA STATE TAX COMMISSIONER. Sup. Ct. App. W. Va. [Certiorari granted, 585 U. S. 1015.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–949. STURGEON *v.* FROST, ALASKA REGIONAL DIRECTOR OF THE NATIONAL PARK SERVICE, ET AL. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1002.] Motion of Alaska for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1026. GARZA *v.* IDAHO. Sup. Ct. Idaho. [Certiorari granted, 585 U. S. 1002.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1107. CARPENTER, INTERIM WARDEN *v.* MURPHY. C. A. 10th Cir. [Certiorari granted *sub nom. Royal* v. *Murphy*, 584 U. S. 992.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE GORSUCH took no part in the consideration or decision of this motion.*

No. 17–1174. NIEVES ET AL. *v.* BARTLETT. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1029.] Motion of respondent to file volume II of the joint appendix under seal granted.

---

*See also note, 586 U. S. 913.

No. 17–1229. HELSINN HEALTHCARE S. A. *v.* TEVA PHARMACEUTICALS USA, INC., ET AL. C. A. Fed. Cir. [Certiorari granted, 585 U. S. 1015.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 18–164. FIRST SOLAR, INC., ET AL. *v.* MINEWORKERS' PENSION SCHEME ET AL. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 18–351. CITY OF PENSACOLA, FLORIDA, ET AL. *v.* KONDRAT'YEV ET AL. C. A. 11th Cir. Motion of petitioners to expedite consideration of petition for writ of certiorari denied.

No. 18–5401. POIRIER *v.* MASSACHUSETTS DEPARTMENT OF CORRECTION. C. A. 1st Cir.;

No. 18–5567. CURRY *v.* CITY OF MANSFIELD, OHIO, ET AL. Ct. App. Ohio, 5th App. Dist., Richland County; and

No. 18–5568. CURRY *v.* CITY OF MANSFIELD, OHIO, ET AL. Ct. App. Ohio, 5th App. Dist., Richland County. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 30, 2018, 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.

No. 18–5976. IN RE AMUN RE EL. Petition for writ of habeas corpus denied.

No. 18–6034. IN RE BURWELL. Petition for writ of habeas corpus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.*

No. 18–5952. IN RE WILLIAMS. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8.

No. 18–5852. IN RE SMOTHERMAN. Petition for writ of mandamus denied.

No. 18–5454. IN RE GOUCH-ONASSIS;

No. 18–5455. IN RE GOUCH-ONASSIS; and

---

*See also note, 586 U. S. 913.

No. 18–5551. In re Joseph. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of mandamus dismissed. See this Court's Rule 39.8.

No. 18–5575. In re Allah. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8. As 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*).

Certiorari Denied

No. 17–1318. Kindred Nursing Centers L. P., dba Winchester Centre for Health and Rehabilitation, nka Fountain Circle Health and Rehabilitation, et al. *v.* Wellner, Individually and on Behalf of the Estate of Wellner, Deceased. Sup. Ct. Ky. Certiorari denied. Reported below: 533 S. W. 3d 189.

No. 17–1463. Segovia et al. *v.* United States et al. C. A. 7th Cir. Certiorari denied. Reported below: 880 F. 3d 384.

No. 17–1483. Alexsam, Inc. *v.* Wildcard Systems, Inc., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 708 Fed. Appx. 680.

No. 17–1499. RP Healthcare, Inc., et al. *v.* Ranbaxy Pharmaceuticals Inc. et al. C. A. 3d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 132.

No. 17–1510. Veal *v.* Georgia. Sup. Ct. Ga. Certiorari denied. Reported below: 303 Ga. 18, 810 S. E. 2d 127.

No. 17–1559. Villegas-Sarabia *v.* Sessions, Attorney General. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 3d 871.

No. 17–1566. Lacaze *v.* Louisiana. Sup. Ct. La. Certiorari denied. Reported below: 2016–0234 (La. 3/13/18), 239 So. 3d 807.

No. 17–1607. Fairley *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 880 F. 3d 198.

No. 17–1610. JONES *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES. C. A. Fed. Cir. Certiorari denied. Reported below: 702 Fed. Appx. 988.

No. 17–1611. HILLSMAN *v.* ESCOTO. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 722.

No. 17–1699. MR. P. ET UX., INDIVIDUALLY AND AS NEXT FRIENDS OF M. P. *v.* WEST HARTFORD BOARD OF EDUCATION. C. A. 2d Cir. Certiorari denied. Reported below: 885 F. 3d 735.

No. 17–1703. HONEYWELL INTERNATIONAL INC. ET AL. *v.* MEXICHEM FLUOR INC. ET AL.; and

No. 18–2. NATURAL RESOURCES DEFENSE COUNCIL *v.* MEXICHEM FLUOR, INC., ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 866 F. 3d 451.

No. 17–8382. GLOVER ET AL. *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 872 F. 3d 625.

No. 17–8558. LONG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 875 F. 3d 411.

No. 17–8801. DEL MONTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9000. ACOSTA *v.* RAEMISCH, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 877 F. 3d 918.

No. 17–9130. POTENCIANO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 620.

No. 17–9159. WARD *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 59, 539 S. W. 3d 546.

No. 17–9549. ZACK *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 918.

No. 18–108. DUNCAN *v.* GEICO GENERAL INSURANCE CO. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 900.

No. 18–115. WYNN *v.* WASHINGTON. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 513.

No. 18–116. Reardon *v.* Zonies et al. C. A. 3d Cir. Certiorari denied. Reported below: 730 Fed. Appx. 129.

No. 18–118. Schwartz et al. *v.* JPMorgan Chase Bank, N. A., et al. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 18–128. Abouelmagd *v.* Newell. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 18–129. W. S. *v.* S. T. et al. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 20 Cal. App. 5th 132, 228 Cal. Rptr. 3d 756.

No. 18–132. Elmhirst *v.* McLaren Northern Michigan Hospital, dba Northern Michigan Emergency Medicine Center, et al. C. A. 6th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 439.

No. 18–136. Dreyer *v.* County Court of Texas, Coleman County. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 18–142. Baroni *v.* Bank of New York Mellon, fka Bank of New York. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 770.

No. 18–147. Scott *v.* District Hospital Partners, L. P., et al. C. A. D. C. Cir. Certiorari denied. Reported below: 715 Fed. Appx. 6.

No. 18–148. Lothian Cassidy, L. L. C., et al. *v.* Lothian Exploration & Development II, L. P. (LEAD II), et al.; and Shoshana Trust et al. *v.* Raleigh et al. C. A. 5th Cir. Certiorari denied.

No. 18–151. Petit-Clair et al. *v.* Grewal, Attorney General of New Jersey, et al. C. A. 3d Cir. Certiorari denied. Reported below: 730 Fed. Appx. 120.

No. 18–152. Garmong *v.* Supreme Court of Nevada et al. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 656.

No. 18–156. Brady *v.* Goldman et al. C. A. 2d Cir. Certiorari denied. Reported below: 714 Fed. Appx. 63.

No. 18–157. Brady *v.* Underwood, Attorney General of New York. C. A. 2d Cir. Certiorari denied. Reported below: 714 Fed. Appx. 60.

No. 18–158. GEBHARDT *v.* NIELSEN, SECRETARY OF HOMELAND SECURITY, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 879 F. 3d 980.

No. 18–166. PROBANDT ET AL. *v.* WALKER. Ct. App. Neb. Certiorari denied. Reported below: 25 Neb. App. 30, 902 N. W. 2d 468.

No. 18–169. LABER *v.* MILBERG LLP ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 413.

No. 18–171. SNYDER *v.* CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 457.

No. 18–172. ANDRADE HERNANDEZ *v.* SESSIONS, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 708.

No. 18–173. XIU JIAN SUN *v.* ZEVE. C. A. 2d Cir. Certiorari denied.

No. 18–183. ADVANCED AUDIO DEVICES, LLC *v.* HTC CORP. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 721 Fed. Appx. 989.

No. 18–184. AYANBADEJO *v.* SIEGL ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–197. WADE *v.* ACOSTA, SECRETARY OF LABOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 454.

No. 18–207. DUGGAN *v.* DEPARTMENT OF DEFENSE. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 842.

No. 18–211. HURD *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 18–237. THOMAS ET AL. *v.* UNITED STATES; and
No. 18–240. KIRK TANG YUK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 885 F. 3d 57.

No. 18–249. CONNOR *v.* CASTRO ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 376.

No. 18–250. TU YING CHEN *v.* SUFFOLK COUNTY COMMUNITY COLLEGE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 773.

No. 18–253. FELIX *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 3d 1508, 70 N. Y. S. 3d 104.

No. 18–256. BARTLETT ET AL. *v.* HONEYWELL INTERNATIONAL, INC. C. A. 2d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 543.

No. 18–270. PHILLIPS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 883 F. 3d 399.

No. 18–291. JAISINGHANI *v.* SHARMA ET AL. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 18–312. SMITH *v.* TENNESSEE NATIONAL GUARD. Sup. Ct. Tenn. Certiorari denied. Reported below: 551 S. W. 3d 702.

No. 18–5036. MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 498.

No. 18–5038. SWEENEY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 887 F. 3d 529.

No. 18–5039. ROWLAND *v.* CHAPPELL, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 876 F. 3d 1174.

No. 18–5164. BROOKS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 671.

No. 18–5217. PEREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 804.

No. 18–5285. SINGH *v.* SESSIONS, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied.

No. 18–5352. BROWN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 924.

No. 18–5359. SUGGS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 699.

No. 18–5376. GERALDS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 923.

No. 18–5387. SMITH *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 189 Wash. 2d 655, 405 P. 3d 997.

No. 18–5395. MEZZLES *v.* KATAVICH, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 639.

No. 18–5402. POPE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 926.

No. 18–5403. DENNIS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–5410. PODARAS *v.* CITY OF MENLO PARK, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 348.

No. 18–5411. MEHMETI *v.* JOFAZ TRANSPORTATION, INC. C. A. 2d Cir. Certiorari denied.

No. 18–5412. JOHNSON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5413. LEWIS *v.* HEDGEMON ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–5415. GASKIN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 928.

No. 18–5420. HEAGY *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 179 A. 3d 552.

No. 18–5424. SAKUMA *v.* ASSOCIATION OF APARTMENT OWNERS OF THE TROPICS OF WAIKELE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 906.

No. 18–5425. JOAQUIN RAMIREZ *v.* APONTE ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 18–5429. GARRY *v.* TRANE CO. Sup. Ct. Wis. Certiorari denied.

No. 18–5432. SANKARA *v.* O'HARA ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–5434. VICTORINO *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 241 So. 3d 48.

No. 18–5437. WHITTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 724.

No. 18–5440. LOMAX *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–5441. BYRD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 922.

No. 18–5442. WALL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 238 So. 3d 127.

No. 18–5443. DEGRATE *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5446. STORY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5447. ROCK *v.* BRACY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5448. STANLEY *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 818.

No. 18–5450. RIVAS-RIVERA *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 161 A. 3d 382.

No. 18–5451. STEELE *v.* JENKINS, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5453. ELLIOTT *v.* PALMER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5457. KENNEDY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–5459. WARNELL *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–5460. HILL *v.* REINKE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 707.

No. 18–5463. KENNEDY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5465. DREYFUSE *v.* JUSTICE, GOVERNOR OF WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied.

No. 18–5476. ISMAIYL *v.* BROWN ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5477. EBRON *v.* BROWN, CHAIR, VIRGINIA PAROLE BOARD, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 697 Fed. Appx. 779.

No. 18–5478. JENNINGS *v.* DEUTSCHE BANK NATIONAL TRUST CO. ET AL. Sup. Ct. Mo. Certiorari denied.

No. 18–5479. JACKSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5481. WATSON *v.* VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 325.

No. 18–5485. WASHINGTON *v.* ARNOLD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5486. QUINTANA *v.* HANSEN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 439.

No. 18–5489. MIN HO KWON *v.* HYOUN PHIL WON ET AL. Sup. Ct. Va. Certiorari denied.

No. 18–5491. LOVIN *v.* ALLBAUGH, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 698.

No. 18–5493. GANT *v.* WINN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5494. MILAM *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 781.

No. 18–5496. PEREZ *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 1055, 416 P. 3d 42.

No. 18–5498. CURTIS *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied. Reported below: 501 Mich. 1037, 909 N. W. 2d 251.

No. 18–5499. SANCHEZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5501. JONES *v.* BANK OF AMERICA ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5502. JACOBSON *v.* ARIZONA. Ct. App. Ariz. Certiorari denied. Reported below: 244 Ariz. 187, 418 P. 3d 960.

No. 18–5503. PRESTON *v.* GREAT LAKES SPECIALTY FINANCE, INC., DBA AXCESS FINANCIAL. C. A. 6th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 453.

No. 18–5506. SUNDY *v.* FRIENDSHIP PAVILION ACQUISITION CO., LLC, ET AL. Ct. App. Ga. Certiorari denied.

No. 18–5507. SCHWARZMAN *v.* GRAY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5512. WILSON *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2018 WI App 16, 380 Wis. 2d 282, 913 N. W. 2d 233.

No. 18–5513. MY VAN TRAN *v.* SHELDON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5514. WILKINS *v.* VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 310.

No. 18–5523. SANCHEZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5531. CULVER *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 18–5540. RUSH *v.* REWERTS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5544. VAN LE *v.* ALDRIDGE, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 763.

No. 18–5545. LOPEZ *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–5546. COBLE *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 297.

No. 18–5553. WILLIAMS *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 18–5566. LIBRACE *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 8th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 418.

No. 18–5573. WILLIAMS *v.* CAMPBELL, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5600. BONNER *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5609. LAJEUNESSE *v.* IOWA. Ct. App. Iowa. Certiorari denied. Reported below: 913 N. W. 2d 275.

No. 18–5616. CLAYBORNE *v.* NEBRASKA. C. A. 8th Cir. Certiorari denied.

No. 18–5623. WILLIAMS *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied.

No. 18–5633. KENNEDY *v.* MICHIGAN STATE TREASURER. Ct. App. Mich. Certiorari denied.

No. 18–5639. CASTLEMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5657. PASSMORE *v.* O'FALLON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 703.

No. 18–5661. WILLIAMS *v.* SAMSON RESOURCES CORP. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 162.

No. 18–5666. DENNISON *v.* HOOKS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5669. CRUZ *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 18–5688. EMANUEL *v.* DEPARTMENT OF JUSTICE. C. A. D. C. Cir. Certiorari denied.

No. 18–5689. BRIDGETTE *v.* ASUNCION, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5698. BROWN *v.* OHIO. Ct. App. Ohio, 6th App. Dist., Lucas County. Certiorari denied. Reported below: 2018-Ohio-132.

No. 18–5713. DUNNING *v.* WARE, DIRECTOR, COURT SERVICES AND OFFENDER SUPERVISION AGENCY. C. A. D. C. Cir. Certiorari denied.

No. 18–5743. SIMMONS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–5747. AMADOR-FLORES *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 839.

No. 18–5749. AGOLLI *v.* DISTRICT OF COLUMBIA ET AL. Ct. App. D. C. Certiorari denied.

No. 18–5750. CUEVAS *v.* KELLY, SUPERINTENDENT, OREGON STATE PENITENTIARY. Ct. App. Ore. Certiorari denied.

No. 18–5753. PELLO *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 18–5797. GUTIERREZ-TORRES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 502.

No. 18–5800. WILLIAMS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 290.

No. 18–5803. DURY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 123.

No. 18–5804. DIALLO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 732 Fed. Appx. 94.

No. 18–5808. ANGEL RONDON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5809. SHARP *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 879 F. 3d 327.

No. 18–5814. CRUZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–5817. MOORER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5823. MARSHALL *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 185 A. 3d 722.

No. 18–5824. LARIVE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5825. JOHNSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 839.

No. 18–5826. CARTER *v.* CALDWELL, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–5828. LOPEZ-GARCIA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–5831. CURRY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 314.

No. 18–5835. LIZARRAGA-LEYVA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 258.

No. 18–5839. REBMANN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5840. STONEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–5842. CHHEA *v.* DELBALSO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5844. TINOCO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 581.

No. 18–5845. PIERCE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5846. WILKINS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 734 Fed. Appx. 1.

No. 18–5847. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 837.

No. 18–5849. SOZA *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5858. GLOOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 493.

No. 18–5861. LOPEZ CHAVEZ *v.* MARTINEZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 518.

No. 18–5865. PENNINGTON *v.* CLARK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. Sup. Ct. Pa. Certiorari denied.

No. 18–5866. MOSLEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–5871. POSA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5872. MEDINA-REYES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 732.

No. 18–5874. EDWARDS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 3d 708.

No. 18–5875. VIVO *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 179 Conn. App. 906, 176 A. 3d 1261.

No. 18–5879. ENEH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 367.

No. 18–5882. VELA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 136.

No. 18–5884. RICHARDSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 890 F. 3d 616.

No. 18–5885. SHANNON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 243.

No. 18–5890. WHITFIELD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–5893. STREETMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 594.

No. 18–5894. SHAW *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 3d 1217.

No. 18–5895. IZATT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 610.

No. 18–5896. BAKER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 281.

No. 18–5899. LEWIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 735 Fed. Appx. 28.

No. 18–5900. MARTINEZ-BARRIENTOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 95.

No. 18–5901. MAXI *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 3d 1318.

No. 18–5904. CROSS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 985.

No. 18–5910. PACKARD *v.* GOODRICH, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 711.

No. 18–5912. KIMMELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 586.

No. 18–5913. ESCOBEDO GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 322.

No. 18–5914. FINNEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 342.

No. 18–5915. HILL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 3d 717.

No. 18–5916. FLORES, AKA BECERRA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 3d 359.

No. 18–5917. DOE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 723 Fed. Appx. 178.

No. 18–5921. STEVENS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 3d 1249.

No. 18–5928. LIMON-URENDA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5929. ODOM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 254.

No. 18–5933. WILKERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 745.

No. 18–5934. WAGNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–5935. CESAR VELASQUEZ *v.* UNITED STATES (Reported below: 728 Fed. Appx. 359); and LAGUNA-GOMEZ *v.* UNITED STATES (732 Fed. Appx. 340). C. A. 5th Cir. Certiorari denied.

No. 18–5944. TANCO-PIZARRO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 892 F. 3d 472.

No. 18–5953. THORNE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 143.

No. 18–5984. BEYAH *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 17–1284. APODACA ET AL. *v.* RAEMISCH ET AL.; and
No. 17–1289. LOWE *v.* RAEMISCH ET AL. C. A. 10th Cir. Certiorari denied. Reported below: No. 17–1284, 864 F. 3d 1071; No. 17–1289, 864 F. 3d 1205.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

A punishment need not leave physical scars to be cruel and unusual. See *Trop* v. *Dulles*, 356 U. S. 86, 101 (1958). As far back as 1890, this Court expressed concerns about the mental anguish caused by solitary confinement.[1] These petitions address one aspect of what a prisoner subjected to solitary confinement may experience: the denial of even a moment in daylight for months or years. Although I agree with the Court's decision not to grant certiorari in these cases because of arguments unmade and facts underdeveloped below, I write because the issue raises deeply troubling concern.

I

Petitioners Jonathan Apodaca, Joshua Vigil, and Donnie Lowe were all previously incarcerated in the Colorado State Penitentiary (CSP). During that time, they were held in what is often referred to as "administrative segregation," but what is also fairly known by its less euphemistic name: solitary confinement. As described in a prior case involving the same prison's conditions:

> "In administrative segregation at the CSP, each offender is housed in a single cell approximately 90 square feet in

[1] See *In re Medley*, 134 U. S. 160, 168 (1890) ("[E]xperience demonstrated that there were serious objections to it. A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide, while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community").

> size. . . . The cell contains a metal bed, desk, toilet and three shelves. There is [a] small vertical glass window that admits light but which, because of its placement in relation to the bed, desk and shelving, is difficult to access to look out. A light in the cell is left on 24 hours a day. The inmates' daily existence is one of extreme isolation. They remain in their cells at least 23 hours a day. The cells were designed in a manner that discourages and largely restricts vocal communication between cells. [One prisoner could] hear other people yelling and screaming but not conversations. All meals are passed through a slot in the cell door to the inmate. The inmates have little human contact except with prison staff and limited opportunities for visitors . . . ." *Anderson* v. *Colorado*, 887 F. Supp. 2d 1133, 1137 (Colo. 2012).

Under then-operative Colorado Department of Corrections (CDOC) regulations, prisoners like Apodaca, Vigil, and Lowe were allowed out of their cells five days per week, for at least "one hour of recreation in a designated exercise area." CDOC Reg. No. 650–03, p. 7 (May 15, 2012). That "designated exercise area" was also about 90 square feet in size, but "oddly shaped" and "empty except for a chin-up bar." *Anderson*, 887 F. Supp. 2d, at 1137. As the prior District Court described it:

> "It has two vertical 'windows,' approximately five feet by six inches in size, which are not glassed but instead are covered with metal grates. The grates have holes approximately the size of a quarter that open to the outside. The inmate can see through the holes, can sometimes feel a breeze, and can sometimes feel the warmth of the sun. This is his only exposure of any kind to fresh air." *Ibid.*

During their time at CSP, Apodaca, Vigil, and Lowe were denied any out-of-cell exercise other than the prescribed hour in that room for between 11 and 25 months.[2] In 2015, Lowe, indi-

---

[2] For Apodaca and Vigil, the deprivation lasted 11 months—from September 2013 to August 2014. Complaint in *Apodaca* v. *Raemisch*, No. 15–cv–845 (D Colo.), Doc. 1, pp. 16–17. For Lowe, it lasted 25 months—from February 2013 to March 2015. Complaint in *Lowe* v. *Raemisch*, No. 15–cv–1830 (D Colo.), Doc. 1, pp. 20–21 (Complaint). All three were later either transferred or released from prison. Brief in Opposition 1. Lowe has since passed away. Reply Brief 2.

vidually, and Apodaca and Vigil, on behalf of themselves and others similarly situated, filed lawsuits seeking damages under Rev. Stat. § 1979, 42 U. S. C. § 1983, in the District of Colorado, alleging that this deprivation violated their Eighth Amendment rights to be free from cruel and unusual punishment. Respondents, CDOC Executive Director Rick Raemisch and CSP Warden Travis Trani, moved to dismiss both cases.[3] The District Court denied both motions to dismiss. The U. S. Court of Appeals for the Tenth Circuit reversed both denials, concluding that its prior precedents allowed "reasonable debate on the constitutionality of disallowing outdoors exercise for two years and one month" in Lowe's case, 864 F. 3d 1205, 1209 (2017), or, moreover, 11 months in Apodaca and Vigil's case, 864 F. 3d 1071, 1078 (2017).

Apodaca, Vigil, and Lowe petitioned this Court for certiorari, arguing that the Tenth Circuit had diverged from the common practice among the Courts of Appeals of allowing a deprivation of outdoor exercise only when it was supported by a sufficient security justification. See Pet. for Cert. in No. 17–1284, pp. 2–3; Pet. for Cert. in No. 17–1289, pp. 2–3. Petitioners are correct that the presence (or absence) of a particularly compelling security justification has, rightly, played an important role in the analysis of the Courts of Appeals.[4] But the litigation before the lower courts here did not focus on the presence or absence of a

---

[3] With regard to Apodaca and Vigil's 11-month deprivation, respondents both contested that there was an Eighth Amendment violation and claimed qualified immunity. See Motion To Dismiss or Motion for Summary Judgment in *Apodaca*, Doc. 18, pp. 6–11. With regard to Lowe's 25-month deprivation, respondents did not contest that there was an Eighth Amendment violation but did again claim qualified immunity. See Motion To Dismiss in *Lowe*, Doc. 10, pp. 7–13.

[4] See, *e. g.*, *Pearson* v. *Ramos*, 237 F. 3d 881, 884–885 (CA7 2001) (reversing judgment for plaintiff who was denied outdoor exercise for a year after a series of serious infractions, including beating a guard to the point that he was hospitalized, setting a fire that prompted an evacuation, and throwing bodily fluids in a medical technician's face); *Bass* v. *Perrin*, 170 F. 3d 1312, 1316–1317 (CA11 1999) (affirming summary judgment for defendants where plaintiffs had, between them, been convicted of aggravated battery, murder, and attempted murder since their incarceration and each had attempted to escape during outdoor recreation); *Spain* v. *Procunier*, 600 F. 2d 189, 200 (CA9 1979) (affirming injunctive relief in the absence of "an adequate justification" from the State for not providing outdoor exercise for over four years).

valid security justification, and therefore the factual record before this Court—as well as the legal analysis provided by the lower courts—is not well suited to our considering the question now.[5] Despite my deep misgivings about the conditions described, I therefore concur in the Court's denial of certiorari. Cf. *Perez* v. *Florida*, 580 U. S. 1187, 1188 (2017) (SOTOMAYOR, J., concurring in denial of certiorari).

II

I write to note, however, that what is clear all the same is that to deprive a prisoner of any outdoor exercise for an extended period of time in the absence of an especially strong basis for doing so is deeply troubling—and has been recognized as such for many years. Then-Judge Kennedy observed as much in 1979, ruling that, in the absence of "an adequate justification" from the State, "it was cruel and unusual punishment for a prisoner to be confined for a period of years without opportunity to go outside except for occasional court appearances, attorney interviews, and hospital appointments." *Spain* v. *Procunier*, 600 F. 2d 189, 200 (CA9 1979). And while he acknowledged that various security concerns—including the safety of staff and other prisoners and preventing escape—could "justify not permitting plaintiffs to mingle with the general prison population," he observed that those generalized concerns did "not explain why other exercise arrangements were not made." *Ibid.* The same inquiry remains essential today, given the vitality—recognized by the Tenth Circuit in other cases[6]—of the basic human need at issue. It should be

[5] For example, the CDOC regulations in effect during the relevant time period outlined particular conduct that could justify the imposition of solitary confinement, including, for example, attempting to harm seriously or kill another person, organizing or inciting a riot, or attempting to escape from a secure facility. See CDOC Reg. No. 650–03, p. 4 (May 15, 2012). But those regulations also included provisions that could be questionable in their application, including a catchall for "[o]ther circumstances." See *ibid.* Here, we have not been presented with facts in the record explaining what led to this extreme condition of confinement being imposed on Apodaca, Vigil, or Lowe, or, similarly, whether permitting outdoor exercise would have meaningfully increased any of the potential risks.

[6] See *Fogle* v. *Pierson*, 435 F. 3d 1252, 1260 (2006) ("[W]e think it is clear that a factfinder might conclude that the risk of harm from three years of deprivation of any form of outdoor exercise was obvious"); *Perkins* v. *Kansas Dept. of Corrections*, 165 F. 3d 803, 810 (1999) ("[W]e conclude the district court here erred when it held that plaintiff's allegations about the

clear by now that our Constitution does not permit such a total deprivation in the absence of a particularly compelling interest.

Two Justices of this Court have recently called attention to the broader Eighth Amendment concerns raised by long-term solitary confinement. See *Ruiz* v. *Texas*, 580 U. S. 1191–1192 (BREYER, J., dissenting from denial of stay of execution); *Davis* v. *Ayala*, 576 U. S. 257, 286–290 (2015) (Kennedy, J., concurring). Those writings came in cases involving capital prisoners, but it is important to remember that the issue sweeps much more broadly: Whereas fewer than 3,000 prisoners are on death row, a recent study estimated that 80,000 to 100,000 people were held in some form of solitary confinement.[7] The Eighth Amendment, of course, protects them all.

Lowe himself, respondents tell us, was convicted of second-degree burglary and introduction of contraband—and he evidently spent 11 years in solitary confinement. See Brief in Opposition 1, n. 1; Complaint, at 5. It is hard to see how those 11 years could have prepared him for the day in July 2015 when he "was released from solitary confinement directly to the streets," though his Complaint mentions that he had found "wor[k] doing construction labor and [was] striving to establish a life on the streets." *Ibid.* While we do not know what caused his death in May 2018, see Reply Brief 2, n. 2, we do know that solitary confinement imprints on those that it clutches a wide range of psychological scars.[8]

---

extended deprivation of outdoor exercise showed no excessive risk to his well-being" (internal quotation marks and alteration omitted)); *Bailey* v. *Shillinger*, 828 F. 2d 651, 653 (1987) ("There is substantial agreement among the cases in this area that some form of regular outdoor exercise is extremely important to the psychological and physical well being of inmates, and some courts have held a denial of fresh air and exercise to be cruel and unusual punishment under certain circumstances").

[7] See Dept. of Justice, Bureau of Justice Statistics, E. Davis & T. Snell, Capital Punishment, 2016, p. 2 (Apr. 2018); The Liman Program & Assn. of State Correctional Adm'rs, Time-In-Cell: The ASCA-Liman 2014 National Survey of Administrative Segregation in Prison, p. ii (Aug. 2015).

[8] See, *e. g.*, *Davis* v. *Ayala*, 576 U. S. 257, 289 (2015) (Kennedy, J., concurring) (detailing psychological effects and citing story of 16-year-old who was held in pretrial solitary confinement for three years and committed suicide two years after his release); *Grissom* v. *Roberts*, 902 F. 3d 1162, 1175–1178 (CA10 2018) (Lucero, J., concurring); see also B. Stevenson, Just Mercy 153 (2014) (recounting story of juvenile prisoner whose "mental health unrav-

Respondent Raemisch, CDOC's executive director, himself has acknowledged the ills of solitary confinement,[9] and I note that Colorado has in recent years revised its regulations such that it now allows all inmates "access to outdoor recreation" for at least one hour, three times per week, subject to "security or safety considerations."[10] Those changes cannot undo what petitioners, and others similarly situated, have experienced, but they are nevertheless steps toward a more humane system.

More steps may well be needed. Justice Kennedy, in his *Ayala* concurrence, 576 U. S., at 287, referenced Charles Dickens' depiction of the ravages of solitary confinement in A Tale of Two Cities, but it is worth appreciating that the portrayal referenced was not merely the result of a skilled novelist's imagination. In 1842, Dickens recounted his real-life visit to Philadelphia's Eastern State Penitentiary, in which he described the prisoners housed in solitary confinement there:

> "[The prisoner] is led to the cell from which he never again comes forth, until his whole term of imprisonment has expired. He never hears of wife and children; home or friends; the life or death of any single creature. He sees the prison-officers, but with that exception he never looks upon a human countenance, or hears a human voice. He is a man buried alive; to be dug out in the slow round of years; and in the mean time dead to everything but torturing anxieties and horrible despair." C. Dickens, American Notes for General Circulation 148 (J. Whitley & A. Goldman eds. 1972).

---

eled" in solitary, yielding self-harm and multiple suicide attempts). See generally Bennion, Banning the Bing: Why Extreme Solitary Confinement Is Cruel and Far Too Usual Punishment, 90 Ind. L. J. 741, 753–763 (2015); Betts, Only Once I Thought About Suicide, 125 Yale L. J. Forum 222 (2016); Grassian, Psychiatric Effects of Solitary Confinement, 22 Wash. U. J. L. & Pol'y 325 (2006); Smith, The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature, 34 Crime & Justice 441 (2006); Calambokidis, Note, Beyond Cruel and Unusual: Solitary Confinement and Dignitary Interests, 68 Ala. L. Rev. 1117, 1150–1155 (2017).

[9] See Raemisch, Why We Ended Long-Term Solitary Confinement in Colorado, N. Y. Times, Oct. 12, 2017, p. A25 ("It is time for this unethical tool to be removed from the penal toolbox"); Raemisch, My Night in Solitary, N. Y. Times, Feb. 21, 2014, p. A25 ("I felt as if I'd been there for days. I sat with my mind. How long would it take before Ad Seg chipped that away? I don't know, but I'm confident that it would be a battle I would lose").

[10] CDOC Reg. No. 600–09, p. 7 (Jan. 1, 2018).

Dickens did not question the penal officers' motives. He concluded, rather, that they did "not know what it is that they are doing" and that "very few" were "capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers." *Id.*, at 146. The pain caused was invisible and inaudible, such that "slumbering humanity" was "not roused up" to put a stop to it. *Id.*, at 147.

We are no longer so unaware. Courts and corrections officials must accordingly remain alert to the clear constitutional problems raised by keeping prisoners like Apodaca, Vigil, and Lowe in "near-total isolation" from the living world, *Ayala*, 576 U. S., at 289 (Kennedy, J., concurring), in what comes perilously close to a penal tomb.

No. 18–35. PENNSYLVANIA *v.* JOHNSON. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 644 Pa. 150, 174 A. 3d 1050.

No. 18–112. DAY, JUDGE, CIRCUIT COURT OF OREGON, THIRD JUDICIAL DISTRICT *v.* OREGON COMMISSION ON JUDICIAL FITNESS AND DISABILITY. Sup. Ct. Ore. Motion of Freedom of Conscience Defense Fund for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 362 Ore. 547, 413 P. 3d 907.

No. 18–210. BATS GLOBAL MARKETS, INC., ET AL. *v.* CITY OF PROVIDENCE, RHODE ISLAND, ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.* Reported below: 878 F. 3d 36.

No. 18–231. NEW WEST, L. P., ET AL. *v.* CITY OF JOLIET, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.* Reported below: 891 F. 3d 271.

No. 18–5560. BEAUCHAMP *v.* DOGLIETTO ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.* Reported below: 698 Fed. Appx. 396.

No. 18–5583. TURNER *v.* SMITH ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consider-

*See also note, 586 U. S. 913.

ation or decision of this petition.* Reported below: 734 Fed. Appx. 460.

No. 18–5704. AUSTIN *v.* DISTRICT ATTORNEY OF PHILADELPHIA COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.*

No. 18–5810. CHIRINO RIVERA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.*

No. 18–5811. ESCOBAR DE JESUS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.*

No. 18–5930. WALKER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.* Reported below: 738 Fed. Appx. 91.

Rehearing Denied

No. 17–8324. WELLS *v.* HARRY, WARDEN, 584 U. S. 1016. Petition for rehearing denied.

OCTOBER 11, 2018

Miscellaneous Order

No. 18A385. MAYS, WARDEN, *v.* ZAGORSKI. Application to vacate stay of execution of sentence of death, entered by the United States Court of Appeals for Sixth Circuit on October 10, 2018, presented to JUSTICE KAGAN, and by her referred to the Court, granted. JUSTICE BREYER and JUSTICE SOTOMAYOR would deny the application to vacate the stay.

Certiorari Denied

No. 18–6238 (18A376). ZAGORSKI *v.* PARKER, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Tenn. Application for stay of execution of sentence of death, presented to JUSTICE KAGAN, and by her referred to the Court, denied. Certiorari denied. Reported below: 558 S. W. 3d 606.

*See also note, 586 U. S. 913.

JUSTICE SOTOMAYOR, with whom JUSTICE BREYER joins, dissenting.

Once again, a State hastens to kill a prisoner despite mounting evidence that the sedative to be used, midazolam, will not prevent the prisoner from feeling as if he is "drowning, suffocating, and being burned alive from the inside out" during a process that could last as long as 18 minutes. *Irick* v. *Tennessee*, 585 U. S. 1048, 1048–1049 (2018) (SOTOMAYOR, J., dissenting from denial of application for stay); see also *Arthur* v. *Dunn*, 580 U. S. 1141, 1153–1154 (2017) (SOTOMAYOR, J., dissenting from denial of certiorari). And once again the State claims the right to do so under the Eighth Amendment not because a court has concluded that these risks are overblown, but rather because of the "perverse requirement that inmates offer alternative methods for their own executions." *McGehee* v. *Hutchinson*, 581 U. S. 933, 935 (2017) (SOTOMAYOR, J., dissenting from denial of application for stay and denial of certiorari); see also *Glossip* v. *Gross*, 576 U. S. 863, 878–881 (2015). This requirement was legally and morally wrong when it was promulgated, and it has been proved even crueler in light of the obstacles that have prevented capital prisoners from satisfying this precondition. I would therefore grant a stay of execution and grant petitioner Edmund Zagorski's petition for certiorari to consider what suffices for a prisoner to prove "a known and available alternative method of execution." *Id.*, at 878.[1]

For several years, Tennessee has provided for the execution of capital prisoners via a single drug called pentobarbital. See *Abdur'Rahman* v. *Parker*, No. M2018–01385–SC–RDO–CV (Sup. Ct. Tenn., Oct. 8, 2018), pp. 3–4. Pentobarbital, a barbiturate, does not carry the risks described above; unlike midazolam (a benzodiazepine), pentobarbital is widely conceded to be able to render a person fully insensate. See, *e. g.*, *Glossip*, 576 U. S., at 878.

In January 2018, Tennessee Department of Corrections (TDOC) adopted an alternative to pentobarbital: Protocol B, a three-drug

---

[1] The State's refusal to allow Zagorski's attorneys to access a telephone during Zagorski's scheduled execution is also troubling. For reasons expressed before, I would grant review of this question as well. See *Arthur* v. *Dunn*, 581 U. S. 1002, 1002–1003 (2017) (SOTOMAYOR, J., dissenting from denial of application for stay and denial of certiorari).

sequence beginning with midazolam (the drug whose sedative properties are dubious), to be followed by vecuronium bromide (to paralyze the prisoner) and then potassium chloride (to stop the prisoner's heart).[2] No. M2018–01385–SC–RDO–CV, at 4. The pentobarbital option—Protocol A—remained, meanwhile, in effect. *Ibid.* In February 2018, the State set execution dates for several prisoners, including Zagorski, and Zagorski and others soon thereafter filed suit challenging Protocol B and pointing to Protocol A, pentobarbital, as the available, significantly less risky alternative. See *id.*, at 4–5. The State, however, was noncommittal about pentobarbital's availability. At a pretrial hearing in April 2018, as Justice Lee explained in dissent below, the trial court "zeroed in on the problem and repeatedly questioned counsel about the availability of pentobarbital," emphasizing that an answer to this question was "'essential.'" *Id.*, at 4. "The State's response to the trial court's direct question—'will [Protocol A] be available for the August 9th execution?'—was 'I can't answer that question, Your Honor.'" *Id.*, at 5.

Then, "[j]ust a few hours before the parties filed their trial briefs on July 5, 2018, [TDOC] adopted a revised execution protocol that abandoned [pentobarbital], leaving only Protocol B"—the midazolam option. *Id.*, at 4. Trial commenced a few days later. Working on a highly expedited timeline, the trial court ruled against the prisoners later that month, concluding that they had failed to prove the availability of pentobarbital—the very method that TDOC had retained as Protocol A until just before trial started.[3] See *Abdur'Rahman* v. *Parker*, No. 18–183–II(III) (Ch.

[2] "The first drug [midazolam] is critical; without it, the prisoner faces the unadulterated agony of the second and third drugs." *Arthur* v. *Dunn*, 580 U. S. 1141, 1142 (2017) (SOTOMAYOR, J., dissenting from denial of certiorari). This Court in *Glossip* concluded that a district court did not clearly err in finding that midazolam could render a prisoner sufficiently insensate to the excruciating effects of the second and third drugs. See 576 U. S., at 885. Any confidence in that conclusion has since eroded in the face of growing contrary medical evidence and worrisome results from executions themselves. See, *e. g.*, *Abdur'Rahman* v. *Parker*, No. 18–183–II(III) (Ch. Ct. Davidson Cty., Tenn., July 26, 2018), pp. 21–22, 27–28. Because the opinions below do not defend the use of midazolam on the merits, midazolam's inadequacy is not the focus here.

[3] The trial court also concluded that the prisoners' experts "established that midazolam does not elicit strong analgesic effects and the inmate being executed may be able to feel pain from the administration of the second and

Ct. Davidson Cty., Tenn., July 26, 2018), pp. 2, 34. The Tennessee Supreme Court affirmed on that ground, while declining to "address the Plaintiffs' claim that the three-drug protocol creates a demonstrated risk of severe pain." No. M2018–01385–SC–RDO–CV, at 22.

The circumstances surrounding Zagorski and his fellow prisoners' attempts to prove that pentobarbital was "available" demonstrate how unfairly this already perverse requirement is being applied. For one, the prisoners' ability to prove the drug's availability was severely constrained by rules of secrecy surrounding individuals involved in the execution process. See *id.*, at 3 (Lee, J., dissenting); see also Tenn. Code Ann. § 10–7–504(h) (2018). The prisoners were unable to depose individuals with direct knowledge of the State's efforts to obtain pentobarbital. Nor were the prisoners allowed to learn which potential sellers the State ostensibly approached to try to obtain pentobarbital. Short of cold-calling every pharmacy in the country and asking for pentobarbital, it is anyone's guess how the prisoners were supposed to challenge meaningfully the State's claim that it could not obtain the drug. Yet they were faulted below for failing to offer "direct proof." No. M2018–01385–SC–RDO–CV, at 21.

Moreover, it is not as if pentobarbital has vanished from the Earth, for purposes of execution or otherwise. As Justice Lee noted in dissent, Texas and Georgia have each used it multiple times in executions this year alone. *Id.*, at 5. Missouri also appears to be prepared to use it in upcoming executions. See, *e. g.*, Brief for Respondent in *Bucklew* v. *Precythe*, O. T. 2018, No. 17–8151, p. 1. Moreover, what discovery the prisoners did obtain below indicates that roughly 10 of the 100 suppliers that TDOC reached out to in 2017 did have pentobarbital for sale—just not the number of doses that the State had requested. No. 18–183–II(III), at 13. And at least one supplier around this time evidently quoted a price and discussed a "bulk $ option." App. to Pet. for Cert. 197a.

The trial court found credible the senior TDOC officials who testified to having delegated a search for pentobarbital to their

---

third drugs." *Id.*, at 21. But it nevertheless concluded, without expressing any countervailing confidence in midazolam's anesthetic properties, that this Court "would not find the facts established in this case to violate the Constitution." *Id.*, at 22; see also *Irick* v. *Tennessee*, 585 U. S. 1048, 1049–1050 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

subordinates, see No. 18–183–II(III), at 11–12, and the Tennessee Supreme Court based its affirmance in significant part on these "credibility determinations," see No. M2018–01385–SC–RDO–CV, at 21–22. But these senior officials were not the individuals who actually undertook the search for pentobarbital, see *id.*, at 12; the actual procurers, by contrast, were unavailable to the prisoners because of the State's secrecy laws. When the prisoners tasked with asking the State to kill them another way are denied by the State information crucial to establishing the availability of that other means of killing, a grotesque requirement has become Kafkaesque as well.

Such barriers are not the only ways in which prisoners proposing a more humane means of execution may be thwarted. In other instances, courts have rejected claims by petitioners proposing means of execution that are unavailable under state law. See, *e. g.*, *Arthur*, 580 U. S., at 1141–1142 (SOTOMAYOR, J., dissenting from denial of certiorari). Such rejections are likewise troubling, because they suggest that "all a State has to do to execute [a person] through an unconstitutional method is to pass a statute declining to authorize any alternative method," *id.*, at 1148, and they likewise show the need for us to address in more detail what *Glossip* actually requires. In any event, the prisoners here sought only the State's own Protocol A, which the State itself had held out as a seemingly available method before eliminating it "on the eve of trial." No. M2018–01385–SC–RDO–CV, at 5 (Lee, J., dissenting). That is hardly an extravagant request, particularly when the State's own evidence discloses that there had been opportunities to purchase pentobarbital both in smaller quantities and in bulk.

I accordingly would grant Zagorski's request for a stay and grant certiorari to address what renders a method of execution "available" under *Glossip*. Capital prisoners are not entitled to pleasant deaths under the Eighth Amendment, but they are entitled to humane deaths. The longer we stand silent amid growing evidence of inhumanity in execution methods like Tennessee's, the longer we extend our own complicity in state-sponsored brutality. I dissent.

OCTOBER 12, 2018

Certiorari Granted

No. 17–1702. MANHATTAN COMMUNITY ACCESS CORP. ET AL. *v.* HALLECK ET AL. C. A. 2d Cir. Motion of Chicago Access

Corporation for leave to file brief as *amicus curiae* granted. Certiorari granted. Reported below: 882 F. 3d 300.

OCTOBER 15, 2018

Dismissal Under Rule 46

No. 18–161. DETROIT INTERNATIONAL BRIDGE CO., INC., ET AL. *v.* DEPARTMENT OF STATE ET AL. C. A. D. C. Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 883 F. 3d 895.

Certiorari Granted—Vacated and Remanded

No. 18–5184. HASHIMI *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *McCoy* v. *Louisiana*, 584 U. S. 414 (2018). Reported below: 718 Fed. Appx. 178.

Miscellaneous Orders

No. 18M50. LYON *v.* CANADIAN NATIONAL RAILWAY COMPANY ET AL.;

No. 18M51. ZAREMBA FAMILY FARMS, INC., ET AL. *v.* ENCANA OIL & GAS (USA) INC.;

No. 18M52. REID *v.* UNITED STATES; and

No. 18M54. MCGHEE *v.* DAVIS, WARDEN. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 18M53. SMITH *v.* FOOD BANK OF EASTERN MICHIGAN; and

No. 18M55. RAFI *v.* BRIGHAM AND WOMEN'S HOSPITAL ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18–5621. TORKORNOO *v.* HELWIG ET AL. C. A. 4th Cir.; and

No. 18–5982. BRITTON-HARR *v.* UNITED STATES. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 5, 2018, 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.

No. 18–6048. IN RE SPOTTSVILLE; and

No. 18–6065. IN RE RICHARDSON. Motions of petitioners for leave to proceed *in forma pauperis* denied, and petitions for writs of habeas corpus dismissed. See this Court's Rule 39.8.

No. 18–6054. IN RE BOONE. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 18–5968. IN RE GRACIA-CANTU. Petition for writ of mandamus denied.

No. 18–6018. IN RE TERRY. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of mandamus dismissed. See this Court's Rule 39.8. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

Certiorari Denied

No. 17–1575. YONG *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 644 Pa. 613, 177 A. 3d 876.

No. 17–1624. CITIZEN POTAWATOMI NATION *v.* OKLAHOMA. C. A. 10th Cir. Certiorari denied. Reported below: 881 F. 3d 1226.

No. 17–1713. EMERSON ELECTRIC CO. ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, ORANGE COUNTY, ET AL. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 316, 410 P. 3d 32.

No. 17–7929. BROWN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 17–8462. PETRAS ET AL. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 879 F. 3d 155.

No. 17–8495. VELEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 17–8853. DIXON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 924.

No. 17–9326. KORNSE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 135.

No. 17–9436. Francisco Vega *v.* Germaine. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 247 So. 3d 471.

No. 17–9458. Porter *v.* Rhode Island. Sup. Ct. R. I. Certiorari denied. Reported below: 179 A. 3d 1218.

No. 18–84. ConAgra Grocery Products Co. et al. *v.* California; and

No. 18–86. Sherwin-Williams Co. *v.* California. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 17 Cal. App. 5th 51, 227 Cal. Rptr. 3d 499.

No. 18–124. Two-Way Media Ltd. *v.* Comcast Cable Communications, LLC, et al. C. A. Fed. Cir. Certiorari denied. Reported below: 874 F. 3d 1329.

No. 18–167. MCC (Xiangtan) Heavy Industrial Equipment Co., Ltd. *v.* Liebherr Mining & Construction Equipment, Inc., dba Liebherr Mining Equipment Newport News Co. Sup. Ct. Va. Certiorari denied.

No. 18–176. Conestoga Trust Services, LLC, as Trustee of the Conestoga Settlement Trust, dated May 1, 2010 *v.* Sun Life Assurance Company of Canada. C. A. 6th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 600.

No. 18–181. Klayman *v.* Luck. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2017-Ohio-8231.

No. 18–198. Celli *v.* New York City Department of Education et al. C. A. 2d Cir. Certiorari denied. Reported below: 699 Fed. Appx. 88.

No. 18–200. Michigan *v.* Jones. Ct. App. Mich. Certiorari denied.

No. 18–201. Montazer *v.* Montazer. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 18–205. Northern California Water Assn. et al. *v.* California State Water Resources Control Board et al. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 20 Cal. App. 5th 1204, 230 Cal. Rptr. 3d 142.

No. 18–224. PICKENS *v.* BREVARD POLICE TESTING AND SELECTION CENTER. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 245 So. 3d 745.

No. 18–258. EL-KHALIDI *v.* ARABIAN AMERICAN DEVELOPMENT CO. Ct. App. Tex., 9th Dist. Certiorari denied.

No. 18–293. FARKAS *v.* OCWEN LOAN SERVICING, L. L. C., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 273.

No. 18–303. OLEKSY *v.* GENERAL ELECTRIC CO. C. A. Fed. Cir. Certiorari denied. Reported below: 718 Fed. Appx. 981.

No. 18–342. CITY OF MAPLEWOOD, MISSOURI *v.* WEBB ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 889 F. 3d 483.

No. 18–368. THOMAS *v.* COZZI. C. A. 11th Cir. Certiorari denied. Reported below: 892 F. 3d 1288.

No. 18–5168. PALACIOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 405.

No. 18–5191. PANIAGUA-PANIAGUA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 700.

No. 18–5222. COOPER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 259.

No. 18–5529. TERRY *v.* EARLEY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 684.

No. 18–5530. KALDAWI *v.* STATE OF KUWAIT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 452.

No. 18–5557. BUSSING *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–5558. ATWELL *v.* FERGUSON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5562. PIERRE *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 891 F. 3d 224.

No. 18–5563. BRUTON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5569. WEISNER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5570. VARGAS *v.* SUPERIOR COURT OF CALIFORNIA, SAN BERNARDINO COUNTY. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 18–5571. WILKINS, AKA BROWN *v.* CONTRA COSTA COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5572. WELLS *v.* GRAY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5581. JENEWICZ *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–5582. KISSNER *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–5584. THOMPSON *v.* COPELAND ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 3d 582 and 714 Fed. Appx. 805.

No. 18–5586. KNIGHT *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 247 So. 3d 481.

No. 18–5589. DEMA *v.* ALLEGIANT AIR LLC. C. A. 9th Cir. Certiorari denied.

No. 18–5590. JOHNSON *v.* VIRGINIA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 308.

No. 18–5591. MASON *v.* POLSTER, JUDGE, UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5592. MADRID *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–5595. WILLIAMS *v.* SOOD ET AL. C. A. 7th Cir. Certiorari denied.

No. 18–5596. WALLACE *v.* BARNES, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5602. LEONARD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 18–5608. MATA *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5610. SAXENA *v.* ABUD. C. A. 9th Cir. Certiorari denied. Reported below: 677 Fed. Appx. 436.

No. 18–5611. STEWART *v.* STUKEY. C. A. 8th Cir. Certiorari denied.

No. 18–5619. CONTRERAS *v.* ANGLEA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5625. CREW *v.* MONTGOMERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5627. WEBB *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5628. TACQUARD *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 18–5629. CHANEY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5632. LEONOR *v.* FRAKES, DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES. Ct. App. Neb. Certiorari denied. Reported below: 25 Neb. App. xvi.

No. 18–5635. JACKSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5637. DESIR *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 239 So. 3d 678.

No. 18–5643. CRAFT *v.* BONDS, ADMINISTRATOR, SOUTH WOODS STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5668. BLACKLEDGE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 247.

No. 18–5677. LOUGHNER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 18–5728. EARNEST *v.* DAVIS, WARDEN, ET AL. Sup. Ct. Va. Certiorari denied.

No. 18–5769. SMITH *v.* EPPINGER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5794. DAVIS *v.* MADDIE. C. A. 5th Cir. Certiorari denied. Reported below: 702 Fed. Appx. 230.

No. 18–5857. LATIMORE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–5859. MARTINEZ PEREZ *v.* SESSIONS, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 605.

No. 18–5868. CANNON *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 18–5889. WELCH *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5902. ALLEN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 273.

No. 18–5905. MOORE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 150208–U.

No. 18–5922. SARHAN *v.* FEDERAL BUREAU OF PRISONS. C. A. 11th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 871.

No. 18–5937. BURTON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 273 So. 3d 867.

No. 18–5941. TIPPENS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5949. MORRIS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–5950. MILLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 431.

No. 18–5956. WHITNEY *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 138.

No. 18–5957. ARCILA *v.* UNITED STATES; and
No. 18–6016. SANDOVAL-RAMOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 279.

No. 18–5964. HACHENEY *v.* OBENLAND, SUPERINTENDENT, MONROE CORRECTIONAL COMPLEX. C. A. 9th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 541.

No. 18–5966. FAULKNER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 885 F. 3d 488.

No. 18–5967. HOWARD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 720.

No. 18–5970. GORION *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 528.

No. 18–5971. FORTIN *v.* CAIN, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 762.

No. 18–5972. FAYE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 728 Fed. Appx. 120.

No. 18–5973. RAMIREZ-DE JESUS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 733 Fed. Appx. 558.

No. 18–5978. REGISTER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 670.

No. 18–5979. DERRY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 738 Fed. Appx. 107.

No. 18–5983. CHARLTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 257.

No. 18–5987. HAMMOND *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 890 F. 3d 901.

No. 18–5992. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5994. WHITE *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 81, 540 S. W. 3d 291.

No. 18–5996. BARRIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 583.

No. 18–5997. BURCIAGA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 811.

No. 18–6006. GONZALEZ TOVAR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 89.

No. 18–6007. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 771.

No. 18–6008. PAGAN-ROMERO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 894 F. 3d 441.

No. 18–6010. PATEL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6012. WILSON *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6014. VEGA-OROZCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 233.

No. 18–6020. RODGERS *v.* MILLER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 294.

No. 18–6023. BLACKWELL *v.* HANSEN, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 826.

No. 18–6024. BROWN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6028. BAUM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 167.

No. 18–6030. SMITH *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 720 Fed. Appx. 647.

No. 18–6031. ROBINSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–6033. MYERS *v.* OSBORNE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6036. HARDEN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 893 F. 3d 434.

No. 18–6041. BURSE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 83.

No. 18–6042. ARY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 892 F. 3d 787.

No. 18–6046. SKILLERN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 3d 1103.

No. 18–6049. SMITH *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 726.

No. 18–6060. CHAVEZ *v.* LEGRAND, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 388.

No. 18–6063. ALEXANDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 423.

No. 17–508. LIVNAT, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LIVNAT, ET AL. *v.* PALESTINIAN AUTHORITY, AKA PALESTINIAN INTERIM SELF-GOVERNMENT AUTHORITY. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 851 F. 3d 45.

No. 17–1656. VIOLET DOCK PORT, INC., LLC *v.* ST. BERNARD PORT, HARBOR & TERMINAL DISTRICT. Sup. Ct. La. Motion of National Federation of Independent Business Small Business Legal Center et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 2017–0434 (La. 1/30/18), 239 So. 3d 243.

No. 17–8368. MOLETTE *v.* UNITED STATES. C. A. 5th Cir.;

No. 17–8637. GIPSON *v.* UNITED STATES (Reported below: 710 Fed. Appx. 697); and WALKER *v.* UNITED STATES (710 Fed. Appx. 696). C. A. 6th Cir.;

No. 17–8746. WILSON *v.* UNITED STATES. Reported below: 710 Fed. Appx. 435. C. A. 11th Cir.;

No. 17–9045. HOMRICH *v.* UNITED STATES. C. A. 6th Cir.;

No. 17–9379. CHUBB *v.* UNITED STATES. Reported below: 707 Fed. Appx. 388. C. A. 6th Cir.;

No. 17–9400. SMITH *v.* UNITED STATES. Reported below: 714 Fed. Appx. 310. C. A. 4th Cir.;

No. 17–9411. BUCKNER *v.* UNITED STATES. Reported below: 714 Fed. Appx. 273. C. A. 4th Cir.; and

No. 17–9490. LEWIS *v.* UNITED STATES. Reported below: 733 Fed. Appx. 501. C. A. 11th Cir. Certiorari denied.

JUSTICE SOTOMAYOR, dissenting.

I dissent from the denial of certiorari for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

No. 17–8775. GREER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 881 F. 3d 1241.

JUSTICE SOTOMAYOR, dissenting.

I dissent from the denial of certiorari for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

No. 17–9276. BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 868 F. 3d 297.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

Today this Court denies petitioners, and perhaps more than 1,000 like them, a chance to challenge the constitutionality of their sentences.[1] They were sentenced under a then-mandatory provision of the U. S. Sentencing Guidelines, the exact language of which we have recently identified as unconstitutionally vague in another legally binding provision. These petitioners argue that their sentences, too, are unconstitutional. This important question, which has generated divergence among the lower courts, calls out for an answer. Because this Court's decision to deny certiorari precludes petitioners from obtaining such an answer, I respectfully dissent.

Petitioner Thilo Brown, like others whose petitions the Court denies today, was sentenced as a "career offender" under the U. S. Sentencing Guidelines. United States Sentencing Commission,

[1] In addition to Thilo Brown's petition, this Court denies the petitions of Gregory Molette, No. 17–8368; Bobby Jo Gipson and Keith Walker, No. 17–8637; Carlos Wilson, No. 17–8746; Jason Greer, No. 17–8775; Robert Homrich, No. 17–9045; Charles Chubb, No. 17–9379; Terrance Smith, No. 17–9400; John Elwood Buckner, No. 17–9411; and Paul Lewis, No. 17–9490. For the reasons expressed herein, I respectfully dissent from denial of certiorari in their cases as well.

Guidelines Manual § 4B1.1(a) (Nov. 2004) (USSG). At the time, those Guidelines were mandatory. They were "binding on judges" and carried "the force and effect of laws."[2] *United States* v. *Booker*, 543 U. S. 220, 234 (2005).[3] The Guidelines directed enhanced punishment for "career offender[s]." USSG § 4B1.1(a). Defendants qualified as "career offender[s]" if they had "at least two prior felony convictions of either a crime of violence or a controlled substance offense." *Ibid.* There were different ways that a past conviction could count as "a crime of violence," but only one is at issue here: A conviction counted as "a crime of violence" if it "involve[d] conduct that presents a serious potential risk of physical injury to another." § 4B1.2(a)(2) (Nov. 2002). Because it supplied an amorphous catchall at the end of a more definite list, that phrase has been known as the "residual clause." If the phrase sounds familiar, it may be because in *Johnson* v. *United States*, 576 U. S. 591 (2015), this Court considered the exact same language in another provision where it was binding on judges and had the force and effect of law: a statute called the Armed Career Criminal Act (ACCA), 18 U. S. C. § 924(e). Like the Guidelines, the ACCA also required enhanced punishments for career offenders. And, like the Guidelines, the ACCA included its own residual clause. In fact, the ACCA's residual clause was identical to the Guidelines' residual clause. See § 924(e)(2)(B)(ii) (" . . . involves conduct that presents a serious potential risk of physical injury to another").

---

[2] This Court accordingly ruled that the mandatory Guidelines violated the Sixth Amendment. See *United States* v. *Booker*, 543 U. S. 220, 226–227 (2005). The Court then rendered the Guidelines advisory by striking down the provisions that had made them mandatory. See *id.*, at 245.

[3] Indeed, before *Booker*, this Court consistently held that the Sentencing Guidelines "b[ound] judges and courts in their uncontested responsibility to pass sentence in criminal cases." *Mistretta* v. *United States*, 488 U. S. 361, 391 (1989); see also *Stinson* v. *United States*, 508 U. S. 36, 42 (1993) ("The principle that the Guidelines Manual is binding on federal courts applies as well to policy statements"). The lower courts heeded that instruction. See *United States* v. *Hendricks*, 171 F. 3d 1184, 1186 (CA8 1999) ("The sentencing guidelines are, of course, binding on federal district courts"); accord, *United States* v. *Lafayette*, 337 F. 3d 1043, 1051–1052 (CADC 2003); *United States* v. *Stephens*, 347 F. 3d 427, 430 (CA2 2003); *United States* v. *Barbosa*, 271 F. 3d 438, 465 (CA3 2001); *United States* v. *Bahe*, 201 F. 3d 1124, 1129, n. 5 (CA9 2000); *United States* v. *Harriott*, 976 F. 2d 198, 202–203 (CA4 1992); *United States* v. *Lee*, 957 F. 2d 770, 772 (CA10 1992).

Johnson struck down the ACCA's residual clause as unconstitutionally vague. 576 U. S., at 597. You might think that if a sequence of words that increases a person's time in prison is unconstitutionally vague in one legally binding provision, that same sequence is unconstitutionally vague if it serves the same purpose in another legally binding provision. Indeed, after *Johnson*, the Sentencing Commission deleted the residual clause from the Guidelines. See USSG §4B1.2(a)(2) (Nov. 2016). But for petitioners like Brown, who were sentenced long before *Johnson*, this Court has thus far left the validity of their sentences an open question. See *Beckles* v. *United States*, 580 U. S. 256, 266–267 (2017); *id.*, at 281, n. 4 (SOTOMAYOR, J., concurring). The Court's decision today all but ensures that the question will never be answered.

In these petitions, that question largely overlaps with a related, timeliness question: whether Brown and his fellow petitioners may rely on the right announced in *Johnson*, in the ACCA context, to attack collaterally their mandatory-Guidelines sentences. Federal law imposes on prisoners seeking to mount collateral attacks on final sentences "[a] 1-year period of limitation . . . from the latest of" several events. See 28 U. S. C. §2255(f). One event that can reopen this window is this Court "newly recogniz-[ing]" a right and making that right "retroactively applicable to cases on collateral review." §2255(f)(3). The right recognized in the ACCA context in *Johnson*, we have held, is retroactive on collateral review. *Welch* v. *United States*, 578 U. S. 120, 130 (2016).

The question for a petitioner like Brown, then, is whether he may rely on the right recognized in *Johnson* to challenge identical language in the mandatory Guidelines. Three Courts of Appeals have said no. See 868 F. 3d 297 (CA4 2017) (case below); *Raybon* v. *United States*, 867 F. 3d 625 (CA6 2017); *United States* v. *Greer*, 881 F. 3d 1241 (CA10 2018). One Court of Appeals has said yes. See *Cross* v. *United States*, 892 F. 3d 288 (CA7 2018). Another has strongly hinted yes in a different posture, after which point the Government dismissed at least one appeal that would have allowed the court to answer the question directly. See *Moore* v. *United States*, 871 F. 3d 72, 80–84 (CA1 2017); see also *United States* v. *Roy*, 282 F. Supp. 3d 421 (Mass. 2017); *United States* v. *Roy*, Withdrawal of Appeal in No. 17–2169 (CA1). One other court has concluded that the mandatory Guidelines themselves cannot be challenged for vagueness. See *In re Griffin*, 823 F. 3d 1350, 1354 (CA11 2016).

Regardless of where one stands on the merits of how far *Johnson* extends, this case presents an important question of federal law that has divided the courts of appeals and in theory could determine the liberty of over 1,000 people.[4] That sounds like the kind of case we ought to hear. See this Court's Rules 10(a), (c).[5] Because the Court nevertheless declines to do so, I respectfully dissent.

No. 18–5998. BIGGINS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

Rehearing Denied

No. 17–7972. BARNES *v.* TEXAS, 584 U. S. 940. Petition for rehearing denied.

No. 17–6147. SAPPINGTON *v.* OLDHAM, SHERIFF, SHELBY COUNTY, TENNESSEE, 583 U. S. 1017. Motion for leave to file petition for rehearing denied.

OCTOBER 19, 2018

Miscellaneous Order. (For Court's order making allotment of Justices, see 586 U. S. IV.)

OCTOBER 22, 2018

Miscellaneous Order

No. 18A375. IN RE DEPARTMENT OF COMMERCE ET AL. Application for stay, presented to JUSTICE GINSBURG, and by her referred to the Court, granted in part and denied in part. The application is granted as to the order of the United States District Court for the Southern District of New York dated September 21, 2018, which is stayed through October 29, 2018, at 4 p.m. The

---

[4] See Brief for Eight Federal Public Defender Offices as *Amici Curiae* in No. 16–7056 (CA4), pp. 1a–5a (estimating 1,187 cases pending nationwide).

[5] Rule 10 sets forth situations that can weigh in favor of certiorari, although they are "neither controlling nor fully measuring the Court's discretion." Rule 10(a) points to a situation in which "a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter." Rule 10(c) points to a situation in which "a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court."

application is denied as to the orders of the District Court dated July 3, 2018, and August 17, 2018.

If applicants file a petition for writ of certiorari or a petition for writ of mandamus with respect to the stayed order by or before October 29, 2018, at 4 p.m., the stay will remain in effect until disposition of such petition by this Court. Should the petition be denied, this stay shall terminate automatically. In the event the petition is granted, the stay shall terminate upon the sending down of the judgment of this Court. Denial of the stay with respect to the remaining orders does not preclude applicants from making arguments with respect to those orders.

JUSTICE GORSUCH, with whom JUSTICE THOMAS joins, concurring in part and dissenting in part.

To implement the constitutional requirement for an "actual Enumeration" of the people every 10 years, Art. I, § 2, cl. 3, Congress has instructed the Secretary of Commerce to "take a decennial census . . . in such form and content as he may determine." 13 U. S. C. § 141(a). Most censuses in our history have asked about citizenship, and Commerce Secretary Wilbur Ross recently decided to reinstate a citizenship question in the 2020 census, citing a statement from the Department of Justice indicating that citizenship data would help it enforce the Voting Rights Act of 1965. Normally, judicial review of an agency action like this is limited to the record the agency has compiled to support its decision. But in the case before us the district court held that the plaintiffs—assorted States and interest groups—had made a "strong showing" that Secretary Ross acted in "bad faith" and were thus entitled to explore his subjective motivations through "extra-record discovery," including depositions of the Secretary, an Acting Assistant Attorney General, and other senior officials. *New York* v. *Department of Commerce*, 333 F. Supp. 3d 282, 285, 289 (SDNY 2018). In two weeks, the district court plans to hold a trial to probe the Secretary's mental processes.

This is all highly unusual, to say the least. Leveling an extraordinary claim of bad faith against a coordinate branch of government requires an extraordinary justification. As evidence of bad faith here, the district court cited evidence that Secretary Ross was predisposed to reinstate the citizenship question when he took office; that the Justice Department hadn't expressed a desire for more detailed citizenship data until the Secretary solic-

ited its views; that he overruled the objections of his agency's career staff; and that he declined to order more testing of the question given its long history. But there's nothing unusual about a new cabinet secretary coming to office inclined to favor a different policy direction, soliciting support from other agencies to bolster his views, disagreeing with staff, or cutting through red tape. Of course, some people may disagree with the policy and process. But until now, at least, this much has never been thought enough to justify a claim of bad faith and launch an inquisition into a cabinet secretary's motives.

Unsurprisingly, the government tells us that it intends to file a petition seeking review of the district court's bad faith determination and its orders allowing extra-record discovery. Toward that end, it has asked us to stay temporarily all extra-record discovery until we may consider its petition for review.

Today, the Court signals that it is likely to grant the government's petition. It stays Secretary Ross's deposition after weighing, among other things, the likelihood of review and the injury that could occur without a stay. And it expressly invites the government to seek review of all of the district court's orders allowing extra-record discovery, including those authorizing the depositions of other senior officials.

Respectfully, I would take the next logical step and simply stay all extra-record discovery pending our review. When it comes to the likelihood of success, there's no reason to distinguish between Secretary Ross's deposition and those of other senior executive officials: each stems from the same doubtful bad faith ruling, and each seeks to explore his motives. As to the hardships, the Court apparently thinks the deposition of a cabinet secretary especially burdensome. But the other extra-record discovery also burdens a coordinate branch in most unusual ways. Meanwhile and by comparison, the plaintiffs would suffer no hardship from being temporarily denied that which they very likely have no right to at all.

There is another factor here, too, weighing in favor of a more complete stay: the need to protect the very review we invite. One would expect that the Court's order today would prompt the district court to postpone the scheduled trial and await further guidance. After all, that is what normally happens when we grant certiorari or indicate that we are likely to do so in a case where trial is imminent. But because today's order technically

leaves the plaintiffs able to pursue much of the extra-record discovery they seek, it's conceivable they might withdraw their request to depose Secretary Ross, try to persuade the trial court to proceed quickly to trial on the basis of the remaining extra-record evidence they can assemble, and then oppose certiorari on the ground that their discovery dispute has become "moot." To ensure that the Court's offer of prompt review is not made meaningless by such maneuvers, I would have thought it simplest to grant the requested extra-record discovery stay in full. Of course, other, if more involved, means exist to ensure that this Court's review of the district court's bad faith finding is not frustrated. I only hope they are not required.

OCTOBER 26, 2018

Miscellaneous Orders

No. 17–571. FOURTH ESTATE PUBLIC BENEFIT CORP. *v.* WALL-STREET.COM, LLC, ET AL. C. A. 11th Cir. [Certiorari granted, 585 U. S. 1029.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1077. LORENZO *v.* SECURITIES AND EXCHANGE COMMISSION. C. A. D. C. Cir. [Certiorari granted, 585 U. S. 1002.] Motion of the Solicitor General to argue *pro hac vice* granted. JUSTICE KAVANAUGH took no part in the consideration or decision of this motion.

No. 17–1107. CARPENTER, INTERIM WARDEN *v.* MURPHY. C. A. 10th Cir. [Certiorari granted *sub nom. Royal* v. *Murphy*, 584 U. S. 992.] Joint motion of respondent and Muscogee (Creek) Nation for leave for Muscogee (Creek) Nation to participate in oral argument as *amicus curiae* and for divided argument granted. JUSTICE GORSUCH took no part in the consideration or decision of this motion.

No. 17–1174. NIEVES ET AL. *v.* BARTLETT. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1029.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Certiorari Granted

No. 17–1594. RETURN MAIL, INC. *v.* UNITED STATES POSTAL SERVICE ET AL. C. A. Fed. Cir. Certiorari granted limited to

Question 1 presented by the petition. Reported below: 868 F. 3d 1350.

No. 17–1657. MISSION PRODUCT HOLDINGS, INC. *v.* TEMPNOLOGY, LLC, NKA OLD COLD LLC. C. A. 1st Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 879 F. 3d 389.

No. 17–1672. UNITED STATES *v.* HAYMOND. C. A. 10th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 869 F. 3d 1153.

OCTOBER 29, 2018

Certiorari Dismissed

No. 18–5645. JOHNSON *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5774. DRIESSEN *v.* ROYAL BANK OF SCOTLAND. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 691 Fed. Appx. 21.

No. 18–5801. LARSON *v.* MOORE ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5836. SHEKHEM EL-BEY *v.* UNITED STATES ET AL. C. A. D. C. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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 Co-*

lumbia Court of Appeals, 506 U. S. 1 (1992) (*per curiam*). JUSTICE KAVANAUGH took no part in the consideration or decision of this motion and this petition.

No. 18–5856. JEEP *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

No. 18–5974. SPAULDING *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. C. A. D. C. Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6118. JONASSEN *v.* SHARTLE, WARDEN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

Miscellaneous Orders

No. D–3029. IN RE DISCIPLINE OF SPEIGHTS. Nathaniel H. Speights, of Washington, D. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3030. IN RE DISCIPLINE OF REINER. Martin Barnett Reiner, of Beverly Hills, Cal., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3031. IN RE DISCIPLINE OF ROBERTS. Richard Allen Roberts, of White Plains, N. Y., is suspended from the practice of

law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3032. IN RE DISCIPLINE OF POWELL. Roger N. Powell, of Reisterstown, Md., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3033. IN RE DISCIPLINE OF CASALE. Michael J. Casale, Jr., of Montoursville, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3034. IN RE DISCIPLINE OF JONAS. W. James Jonas, of San Antonio, Tex., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3035. IN RE DISCIPLINE OF BLYTHE. Angela M. Blythe, of Oakland, Md., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring her to show cause why she should not be disbarred from the practice of law in this Court.

No. D–3036. IN RE DISCIPLINE OF KWASNIK. Michael William Kwasnik, of Hollywood, Fla., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3037. IN RE DISCIPLINE OF COOPER. John Edwin Cooper, of Erie, Pa., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3038. IN RE DISCIPLINE OF HICKS. Thomas Stephen Hicks, of Snow Hill, N. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3039. In re Discipline of Marcin. John Bernard Marcin, of Las Vegas, Nev., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3040. In re Discipline of Mandelbaum. David Ben Mandelbaum, of Overland Park, Kan., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–3041. In re Discipline of Durban. Frampton Durban, Jr., of Newberry, S. C., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. 18M56. Cotner *v.* United States Court of Appeals for the Tenth Circuit. Motion for leave to proceed as a veteran denied.

No. 18M57. In re Sealed Petitioner. Motion for leave to file petition for writ of mandamus under seal with redacted copies for the public record denied.

No. 18M58. Craft *v.* National Labor Relations Board; and

No. 18M59. Thompson *v.* Bank of New York Mellon Trust Co. et al. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M60. Bullock *v.* District of Columbia et al. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 17–9484. Jason K. *v.* Maine Department of Health and Human Services et al. Sup. Jud. Ct. Me. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 19, 2018, 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.

No. 18–109. Ariosa Diagnostics, Inc. *v.* Illumina, Inc. C. A. Fed. Cir.; and

No. 18–309. SWARTZ *v.* RODRIGUEZ, INDIVIDUALLY AND AS SURVIVING MOTHER AND PERSONAL REPRESENTATIVE OF J. A. C. A. 9th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 18–5843. CHANTHUNYA *v.* MARYLAND ATTORNEY GRIEVANCE COMMISSION. Ct. App. Md.; and

No. 18–6128. DIAMOND *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 19, 2018, 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.

No. 18–6099. IN RE MARGHEIM. Petition for writ of mandamus denied.

No. 18–5850. IN RE SCHNEIDER. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 17–1544. FATHER *v.* MAINE DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 2017 ME 214, 173 A. 3d 142.

No. 17–1568. PADILLA-RAMIREZ *v.* CULLEY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 882 F. 3d 826.

No. 17–1572. PETERSON ET AL. *v.* FRANKLIN, TRUSTEE FOR THE ESTATE OF FRANKLIN. C. A. 8th Cir. Certiorari denied. Reported below: 878 F. 3d 631.

No. 17–1604. BROWN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 709 Fed. Appx. 103.

No. 17–1636. CALIFORNIA SEA URCHIN COMMISSION ET AL. *v.* COMBS, ACTING ASSISTANT SECRETARY FOR FISH, WILDLIFE, AND PARKS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 1173.

No. 17–1654. WISE ET AL. *v.* HURT ET AL.; and

No. 17–1655. VANTLIN ET AL. *v.* HURT ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 880 F. 3d 831.

No. 17–1673. AVIATION & GENERAL INSURANCE CO., LTD., ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 882 F. 3d 1088.

No. 17–1700. TURZAI, SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES, ET AL. *v.* BRANDT ET AL. Sup. Ct. Pa. Certiorari denied. Reported below: 644 Pa. 287, 175 A. 3d 282.

No. 17–1701. WEI SUN *v.* SESSIONS, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 3d 23.

No. 17–8844. COOPER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–8960. HASKIN *v.* US AIRWAYS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 689 Fed. Appx. 515.

No. 17–9171. SANDOVAL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 773.

No. 17–9310. LOPEZ LARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 432.

No. 17–9377. DESILIEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 17–9474. GREENWAY *v.* ARIZONA. Super. Ct. Ariz., Pima County. Certiorari denied.

No. 17–9535. KING *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 883 F. 3d 577.

No. 18–67. HURST *v.* CALDWELL ET AL. Ct. App. Ky. Certiorari denied.

No. 18–77. ADVANCED VIDEO TECHNOLOGIES LLC *v.* HTC CORP. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 879 F. 3d 1314.

No. 18–182. AIDS HEALTHCARE FOUNDATION, INC. *v.* GILEAD SCIENCES, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 890 F. 3d 986.

No. 18–187. SIMPSON *v.* BANK OF NEW YORK MELLON. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 227 So. 3d 669.

No. 18–194. NUNN *v.* TENNESSEE DEPARTMENT OF CORRECTION ET AL. Ct. App. Tenn. Certiorari denied. Reported below: 547 S. W. 3d 163.

No. 18–206. CUNNINGHAM *v.* GENERAL DYNAMICS INFORMATION TECHNOLOGY, INC. C. A. 4th Cir. Certiorari denied. Reported below: 888 F. 3d 640.

No. 18–209. MEHTA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 18–213. AUSTIN *v.* HANOVER INSURANCE CO., AKA MASSACHUSETTS BAY INSURANCE CO. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 319.

No. 18–214. BAZARGANI *v.* LATCH'S LANE OWNERS ASSN. ET AL. Super. Ct. Pa. Certiorari denied.

No. 18–215. AUBUCHON ET AL. *v.* MARICOPA COUNTY, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 436.

No. 18–218. BEAM *v.* ABERCROMBIE. C. A. 11th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 918.

No. 18–220. CARRILLO ET AL. *v.* U. S. BANK N. A. ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 241 So. 3d 143.

No. 18–222. EMED TECHNOLOGIES CORP. *v.* REPRO-MED SYSTEMS, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 725 Fed. Appx. 1005.

No. 18–228. WESTERN RADIO SERVICES CO., INC. *v.* ALLEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 660.

No. 18–230. RICHARDS *v.* COUNTY OF LOS ANGELES, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 556.

No. 18–233. INDIEZONE, INC., ET AL. *v.* ROOKE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 333.

No. 18–235. VENTURA CONTENT, LTD. *v.* MOTHERLESS, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 885 F. 3d 597.

No. 18–239. RINALDO *v.* MAHAN ET AL. Ct. App. Colo. Certiorari denied.

No. 18–241. PARMAR, INDIVIDUALLY AND AS EXECUTOR OF THE ESTATE OF PARMAR, ET AL. *v.* MADIGAN, ATTORNEY GENERAL OF ILLINOIS, ET AL. Sup. Ct. Ill. Certiorari denied. Reported below: 2018 IL 122265, 106 N. E. 3d 1004.

No. 18–242. GICHARU ET AL. *v.* SESSIONS, ATTORNEY GENERAL. C. A. 1st Cir. Certiorari denied.

No. 18–243. FOX *v.* POWELL ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 865.

No. 18–245. PENN *v.* NEW YORK METHODIST HOSPITAL ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 884 F. 3d 416.

No. 18–248. AHMED *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 863.

No. 18–251. SCHWARTZ *v.* HRI HOSPITAL, INC., ET AL. App. Ct. Mass. Certiorari denied. Reported below: 92 Mass. App. 1120, 95 N. E. 3d 302.

No. 18–255. BRISCOE *v.* TEXAS. Ct. App. Tex., 6th Dist. Certiorari denied. Reported below: 542 S. W. 3d 109.

No. 18–263. FAUST *v.* ILLINOIS WORKERS COMPENSATION COMMISSION ET AL. Sup. Ct. Ill. Certiorari denied.

No. 18–284. GESSLER *v.* SMITH ET AL. Sup. Ct. Colo. Certiorari denied. Reported below: 419 P. 3d 964.

No. 18–297. WHITE ET AL. *v.* UNDERWOOD, ATTORNEY GENERAL OF NEW YORK, ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 31 N. Y. 3d 543, 106 N. E. 3d 709.

No. 18–298. BEATY *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 423 S. C. 26, 813 S. E. 2d 502.

No. 18–313. DIAMOND *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 250 So. 3d 1.

No. 18–332. SINGSON *v.* REYES, ATTORNEY GENERAL OF UTAH. Ct. App. Utah. Certiorari denied.

No. 18–335. TEAMER *v.* LEWIS, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 286.

No. 18–341. KEYES ET AL. *v.* GUNN ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 890 F. 3d 232.

No. 18–343. ANDREWS *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 77 M. J. 393.

No. 18–356. ORTH *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 7th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 223.

No. 18–357. TASKOV *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–360. BERGRIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 3d 416.

No. 18–381. MARRO *v.* NEW YORK STATE TEACHERS' RETIREMENT SYSTEM. C. A. 6th Cir. Certiorari denied.

No. 18–387. TRIESTMAN *v.* UNDERWOOD, ATTORNEY GENERAL OF NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 97.

No. 18–396. HOLLAND ET AL. *v.* ROSEN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 895 F. 3d 272.

No. 18–397. CLOWDIS *v.* VIRGINIA BOARD OF MEDICINE. Sup. Ct. Va. Certiorari denied.

No. 18–407. STICKLE *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5004. MITCHELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 146.

No. 18–5230. MURPHY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 887 F. 3d 1064.

No. 18–5263. MCGEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5268. SAILOR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5271. MURRAY *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied. Reported below: 882 F. 3d 778.

No. 18–5298. STEWART *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 810.

No. 18–5331. JEREMIAS *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 46, 412 P. 3d 43.

No. 18–5391. SEXTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 894 F. 3d 787.

No. 18–5399. PEREZ *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 421, 411 P. 3d 490.

No. 18–5618. CHON *v.* OBAMA, FORMER PRESIDENT OF THE UNITED STATES, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 653.

No. 18–5641. ALSTON *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 243 So. 3d 885.

No. 18–5648. LAMARCA *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 237 So. 3d 914.

No. 18–5649. RICHARDSON *v.* KENT, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–5650. ROSS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 235 Md. App. 747.

No. 18–5652. SPRINGER *v.* CAPLE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 650.

No. 18–5656. METAYER *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 241 So. 3d 836.

No. 18–5659. CAVALIERI *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–5660. GARTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 485, 412 P. 3d 315.

No. 18–5662. DIAZ *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–5672. RENCHENSKI *v.* MCGINLEY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT COAL TOWNSHIP, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5676. MORRIS *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 18–5681. JOHNSON *v.* OKLAHOMA. Sup. Ct. Okla. Certiorari denied.

No. 18–5687. O'KEEFE *v.* BAKER, WARDEN, ET AL. Ct. App. Nev. Certiorari denied. Reported below: 134 Nev. 990.

No. 18–5690. TAYLOR *v.* SCHWEITZER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5695. ANNABEL *v.* MICHIGAN DEPARTMENT OF CORRECTIONS ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5697. REECE *v.* WHITLEY ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5700. DOCAJ *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5703. BLAIR *v.* VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 182.

No. 18–5705. EASTERLY *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 251 So. 3d 844.

No. 18–5711. COLEMAN *v.* WARD. C. A. 4th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 279.

No. 18–5712. CHRISTMON *v.* B&B AIRPARTS, INC. C. A. 10th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 510.

No. 18–5714. RIVERA-QUINONES *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 18–5716. RAY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5718. CAMPBELL *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 294 Va. 486, 807 S. E. 2d 735.

No. 18–5719. BARTLETT *v.* PINEDA, JUDGE, SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL. Ct. App. Ariz. Certiorari denied.

No. 18–5720. BARTLETT *v.* PINEDA, JUDGE, SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL. Ct. App. Ariz. Certiorari denied.

No. 18–5722. LUGO *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–5723. KUSHNER *v.* GREWAL, ATTORNEY GENERAL OF NEW JERSEY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 95.

No. 18–5724. CONCEPCION *v.* MCGINLEY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT COAL TOWNSHIP, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5726. CAZARES *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 18–5727. CLARKE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–5733. PINDER *v.* MCDOWELL ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 612.

No. 18–5734. MARTIN *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–5735. ERVIN *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–5737. KYLES *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 912.

No. 18–5738. MARQUARDT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 550.

No. 18–5741. RILEY *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 413.

No. 18–5742. ROBERTS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 253 So. 3d 1111.

No. 18–5746. NIX *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 242 So. 3d 1118.

No. 18–5755. ALLEN *v.* SUPERIOR COURT OF GEORGIA, CAMDEN COUNTY. C. A. 11th Cir. Certiorari denied.

No. 18–5758. ANNAMALAI *v.* SIVANADIYAN. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 409.

No. 18–5761. HERMAN *v.* YOUNG ET AL. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2018 IL App (4th) 170001, 92 N. E. 3d 1070.

No. 18–5764. CRANE *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 18–5767. SALERNO *v.* GENTRY, JUDGE, SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL. Sup. Ct. Ariz. Certiorari denied.

No. 18–5768. RAYFORD *v.* LEIBACH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5772. SALDIVAR *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 416.

No. 18–5777. PEDERSON *v.* ARCTIC SLOPE REGIONAL CORP. Sup. Ct. Alaska. Certiorari denied. Reported below: 421 P. 3d 58.

No. 18–5779. COBIA *v.* OHIO ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5782. COOK *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5783. COTTON *v.* COUNTY OF SAN BERNARDINO, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 776.

No. 18–5784. WABUYABO *v.* CORRECT CARE SOLUTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 642.

No. 18–5787. TUBBS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–5792. WATFORD *v.* LAFOND ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 412.

No. 18–5798. C. B. *v.* FISCHGRUND. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 243 So. 3d 365.

No. 18–5802. DOE *v.* KAWEAH DELTA HOSPITAL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 457.

No. 18–5805. COBB *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5806. CORBETT *v.* WASHINGTON. Ct. App. Wash. Certiorari denied.

No. 18–5807. RUBENS *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–5815. FRANCISCO PUENTES *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5829. MATELYAN *v.* ATLANTIC RECORDS ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5830. A. L. *v.* FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 240 So. 3d 708.

No. 18–5832. DIXON *v.* LEE, SUPERINTENDENT, EASTERN NEW YORK CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 18–5837. ROBERTS *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 268 So. 3d 605.

No. 18–5848. DARBY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–5851. SALINAS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–5855. KNIGHT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–5860. AMIN *v.* SESSIONS, ATTORNEY GENERAL. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 206.

No. 18–5867. PRESTON *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5869. MONTGOMERY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 278.

No. 18–5870. PROW *v.* ROY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 649.

No. 18–5883. LOWE *v.* DELTA AIR LINES, INC. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 724.

No. 18–5887. MORTON *v.* HAYNES, SUPERINTENDENT, STAFFORD CREEK CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 18–5911. LAMPON-PAZ *v.* DEPARTMENT OF JUSTICE ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5918. GUERRERO LOZANO *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 243 So. 3d 352.

No. 18–5942. BYLER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 409.

No. 18–5943. LINH THI MINH TRAN *v.* PHAM ET AL. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 384, 414 P. 3d 486.

No. 18–5946. PARRISH *v.* WAINWRIGHT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5951. CASSADY *v.* HALL. C. A. 11th Cir. Certiorari denied. Reported below: 892 F. 3d 1150.

No. 18–5959. INGEBRETSEN *v.* PALMER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–5975. SINGH *v.* SESSIONS, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied.

No. 18–6000. BARREIRO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–6001. CARMAN *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 304 Ga. 21, 815 S. E. 2d 860.

No. 18–6015. TORRES-MEDEL *v.* LASHBROOK, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 18–6017. ROBEY *v.* WASHINGTON. Ct. App. Wash. Certiorari denied.

No. 18–6035. CHAMBERS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6057. SOSA-GONZALEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 900 F. 3d 1.

No. 18–6066. VASQUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 323.

No. 18–6067. LEWIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 827.

No. 18–6068. JONES *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 18–6069. CADENA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 381.

No. 18–6072. GAMEZ MENDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 358.

No. 18–6073. PRICE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 369.

No. 18–6076. SANDIFER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 18–6078. SPRINGER *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2017-Ohio-8861.

No. 18–6079. BROOKS *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6080. BONOWITZ ET AL. *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 18–6083. LAUREANO-PEREZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 892 F. 3d 50.

No. 18–6084. LEE *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 243 So. 3d 337.

No. 18–6087. JOHNSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6090. WILLIAMS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 181 A. 3d 1253.

No. 18–6095. LUIS BUENROSTRO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 3d 1160.

No. 18–6100. PLIEGO-HERNANDEZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 790.

No. 18–6102. MAYES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–6103. VALDEZ-CEJAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 408.

No. 18–6104. THOMAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 689.

No. 18–6107. STONE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6108. SMOTHERMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6109. SINGH *v.* UNITED STATES POSTAL SERVICE. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 661.

No. 18–6111. MANDRELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 554.

No. 18–6112. JONES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–6113. BALLESTEROS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 801.

No. 18–6116. JEAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 3d 712.

No. 18–6117. BUENDIA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 907 F. 3d 399.

No. 18–6119. LONG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6120. PULIDO-NOLAZCO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 859.

No. 18–6121. VEGA-GARCIA, AKA MORENO MOLINA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 893 F. 3d 326.

No. 18–6122. KAPAHU *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 600.

No. 18–6123. GREEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6127. VALLIER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 786.

No. 18–6132. OLIVER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6133. OLIVARES-CEPEDA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6143. RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–6145. NICHOLS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6146. NEUMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6148. NANDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 401.

No. 18–6150. AQUINO-FLORENCIANI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 894 F. 3d 4.

No. 18–6151. THELEMAQUE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 966.

No. 18–6171. TAYLOR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 405.

No. 18–6173. TIZNADO-VALENZUELA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 731 F. 3d 627.

No. 17–7894. TOWNES *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 253 So. 3d 447.

Statement of JUSTICE SOTOMAYOR respecting the denial of certiorari.

Today the Court denies review of Tawuan Townes' capital murder conviction, the constitutionality of which hinges on whether the trial court instructed jurors that they "may" infer his intent to kill a victim or that they "must" do so. The former instruction is constitutional; the latter is not. There is no way to know for sure which instruction the trial court gave. Two court reporters

certified two conflicting transcripts, and the trial court no longer has the original recording. Because Townes has not shown that the procedures below amount to constitutional error, I must vote to deny his petition for certiorari. I write separately because the trial court's failure to preserve the original recording gives cause for deep concern.

Petitioner Tawuan Townes was convicted of capital murder committed in the course of a burglary and sentenced to death. At trial, the crucial question for the jury was whether Townes possessed the requisite intent for a capital murder conviction. According to the trial transcript prepared and certified by the court reporter after trial, the trial court instructed the jury on how to make that decision as follows:

> "'A specific intent to kill is an essential ingredient of capital murder as charged in this indictment, and may be inferred from the character of an assault, the use of a deadly weapon, or other attendant circumstances. Such intent *must be inferred* if the act was done deliberately and death was reasonably to be apprehended or expected as a natural and probable consequence of the act.'" No. CR–10–1892 (Ala. Crim. App., June 13, 2014), App. to Pet. for Cert. A–5 (emphasis added), withdrawn and substituted, 253 So. 3d 447 (Ala. Crim. App. 2015).

Townes appealed, arguing that the trial court's jury instructions violated his constitutional right to due process. The Alabama Court of Criminal Appeals agreed that the jury instruction, as reproduced above, plainly violated his due process rights. Instructing the jury that it "must" infer Townes' specific intent removed the issue of intent from the jury's consideration and relieved the State of its burden to prove each element of the crime beyond a reasonable doubt. See *Sandstrom* v. *Montana*, 442 U. S. 510, 523 (1979). Such presumptions, this Court has held, violate the Due Process Clause. *Francis* v. *Franklin*, 471 U. S. 307, 325 (1985).

Indeed, Townes' intent was the only issue for the jury to resolve at trial. He was charged with shooting and killing Christopher Woods during a burglary. Townes admitted that he and an acquaintance had planned to rob Woods. But Townes adamantly disclaimed any intent to kill Woods, insisting that he shot at

Woods only to scare him. At trial, Townes' counsel focused the defense on this distinction. Under state law, if the jury found that Townes lacked specific intent to kill Woods, it could find Townes guilty of only felony murder. But if the jury found that Townes intended to kill Woods, it could convict Townes of capital murder, making him eligible to receive a death sentence. Because the trial court's instructions took that pivotal question away from the jury, the Court of Criminal Appeals reversed Townes' conviction.

After the reversal, however, the trial court judge filed a "supplemental record" with the appellate court asserting that the certified trial transcript—or rather, a single word of that transcript—had been mistranscribed. The trial court judge insisted that he had properly instructed the jury that it "may," rather than "must," infer specific intent and that the audio recording of Townes' trial confirmed as much. (The government, notably, had not contested the accuracy of the transcript.)

Upon receiving the trial court's *sua sponte* filing, the Court of Criminal Appeals, citing Alabama law, remanded the case and directed the trial court to appoint a new court reporter to listen to the audio recording and retranscribe the trial court proceedings.[1] The second court reporter submitted a new 56-page transcript. It differed from the original transcript by exactly one word: The new transcript said "may" where the original had said "must."[2]

---

[1] Alabama Rule of Appellate Procedure 10(g) (1991) provides: "The appellate court may, on motion of a party or on its own initiative, order that a supplemental or corrected record be certified and transmitted to the appellate court if necessary to correct an omission or misstatement."

[2] This was not the first time that the same trial court judge sought to correct a transcript while a case was pending review. In *Hammonds* v. *Commissioner, Ala. Dept. of Corrections*, 712 Fed. Appx. 841, 847–848 (2017), the Eleventh Circuit rejected the State's attempt to amend the habeas record with a corrected transcript filed by a court reporter at the request of the same trial judge who presided over Townes' trial. The court reporter—the same one who prepared the second transcript in Townes' case—stated that she had reviewed her notes and the recording of the defendant's trial and concluded that the judge had said "inference" instead of "innocence," curing an allegedly erroneous instruction that the defendant challenged on collateral review. *Ibid.*

On the basis of the new transcript, the Court of Criminal Appeals withdrew its reversal and affirmed Townes' conviction and death sentence. The court explained that, according to the new transcript—which was now the official record—the trial judge properly instructed the jury. There is no indication that the Court of Criminal Appeals itself reviewed the audio recording of the instructions.

Townes filed a petition for writ of certiorari. This Court called for the record and specifically requested that the trial court provide a copy of the audio recording. The trial court informed this Court's Clerk's Office that the recording no longer exists.

Without the recording, we cannot know what the judge actually said at trial. The second transcript is now the official record of the trial court proceedings, on which this Court must rely in evaluating Townes' challenge to his conviction. On that record, I am unable to conclude that Townes' conviction is unconstitutional.

But the absence of demonstrable constitutional error makes the doubts raised by the trial court's unusual handling of this matter no less troubling. In a matter of life and death, hinging on a single disputed word, all should take great care to protect the reviewing courts' opportunity to learn what was said to the jury before Townes was convicted of capital murder and sentenced to death. Yet the trial court, after its unilateral intervention in Townes' appeal resulted in dueling transcripts, failed to preserve the recording at issue—despite the fact that Townes' case was still pending direct review, and, consequently, his conviction was not yet final. As a result, the potential for this Court's full review of Townes' conviction has been frustrated.

The Constitution guarantees certain procedural protections when the government seeks to prove that a person should pay irreparably for a crime. A reliable, credible record is essential to ensure that a reviewing court—not to mention the defendant and the public at large—can say with confidence whether those fundamental rights have been respected. *Parker* v. *Dugger*, 498 U. S. 308, 321 (1991) ("It cannot be gainsaid that meaningful appellate review requires that the appellate court consider the defendant's actual record"). By fostering uncertainty about the result here, the trial court's actions in this case erode that confidence. That gives me—and should give us all—great pause.

No. 17–9340. METCALF *v.* UNITED STATES. C. A. 8th Cir. Motion of Gail Heriot et al. for leave to file brief as *amici curiae* granted. Reported below: 881 F. 3d 641.

No. 18–48. MINNESOTA *v.* CHUTE. Sup. Ct. Minn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 908 N. W. 2d 578.

No. 18–232. GRIFFIN *v.* TEAMCARE ET AL. C. A. 7th Cir. Certiorari before judgment denied.

No. 18–254. XIU JIAN SUN *v.* TRUMP, PRESIDENT OF THE UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

No. 18–277. BHAGAT *v.* IANCU, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Motion of Independent Inventors et al. for leave to file brief as *amici curiae* out of time denied. Certiorari denied. Reported below: 726 Fed. Appx. 772.

No. 18–553 (18A449). YACKEL *v.* SOUTH DAKOTA ET AL. Sup. Ct. S. D. Application for stay of execution of sentence of death, presented to JUSTICE GORSUCH, and by him referred to the Court, denied. Certiorari denied.

Rehearing Denied

No. 17–8407. MINCEY *v.* DAVIS, WARDEN, 584 U. S. 996. Petition for rehearing denied.

NOVEMBER 1, 2018

Certiorari Denied

No. 18–6525 (18A465). ZAGORSKI *v.* MAYS, WARDEN. C. A. 6th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KAGAN, and by her referred to the Court, denied. Certiorari denied. Reported below: 907 F. 3d 901.

No. 18–6530 (18A470). ZAGORSKI *v.* HASLAM, GOVERNOR OF TENNESSEE, ET AL. C. A. 6th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KAGAN, and by her referred to the Court, denied. Certiorari denied. Reported below: 741 Fed. Appx. 320.

JUSTICE SOTOMAYOR, dissenting.

Three weeks ago, I expressed my concerns with the Tennessee Supreme Court's rejection of petitioner Edmund Zagorski's challenge to the lethal-injection protocol that the State previously

planned to use to execute him. *Zagorski* v. *Parker*, 586 U. S. 938, 939 (2018) (opinion dissenting from denial of application for stay and denial of certiorari). In the wake of that ruling, Zagorski sought instead to be executed by the electric chair. He did so not because he thought that it was a humane way to die, but because he thought that the three-drug cocktail that Tennessee had planned to use was even worse. Given what most people think of the electric chair, it is hard to imagine a more striking testament—from a person with more at stake—to the legitimate fears raised by the lethal-injection drugs that Tennessee uses. See *ibid.* (noting "mounting evidence that the sedative to be used, midazolam, will not prevent the prisoner from feeling as if he is 'drowning, suffocating, and being burned alive from the inside out' during a process that could last as long as 18 minutes").

The present challenge does not concern lethal injection. That said, it might never have arisen if Zagorski had been able to prevail simply by showing that Tennessee's lethal-injection protocol "creates a demonstrated risk of severe pain." *Abdur'Rahman* v. *Parker*, 558 S. W. 3d 606, 625 (Tenn., 2018). Instead, under this Court's decision in *Glossip* v. *Gross*, 576 U. S. 863 (2015), Zagorski's prior challenge failed only because the Tennessee Supreme Court ruled that he had not proved the "availability of" a safer lethal-injection drug (pentobarbital) that was Zagorski's "proposed alternative method of execution." *Abdur'Rahman*, 558 S. W. 3d, at 625. His eleventh-hour decision to accept the electric chair as a marginally less excruciating alternative does not undermine, as a matter of logic, his contention that both Tennessee's lethal-injection protocol and the electric chair are cruel and unusual in violation of the Eighth Amendment.

Given this petition's unique posture, I note that this Court's denial of Zagorski's challenge says nothing about the constitutional tolerability of the electric chair, which has raised concern in other forums. See, *e. g.*, *State* v. *Mata*, 275 Neb. 1, 67, 745 N. W. 2d 229, 278 (2008) ("Electrocution's proven history of burning and charring bodies is inconsistent with both the concepts of evolving standards of decency and the dignity of man"). It says a great deal, however, about how this Court's decision in *Glossip* continues to "immunize . . . methods of execution—no matter how cruel or how unusual—from judicial review." *Arthur* v. *Dunn*, 580 U. S. 1141, 1142 (2017) (SOTOMAYOR, J., dissenting from denial

of certiorari). Because I continue to believe that we should rethink this troubling doctrinal shift and reaffirm that "[t]he Cruel and Unusual Punishments Clause prohibits the imposition of inherently barbaric punishments under all circumstances," *Graham* v. *Florida*, 560 U. S. 48, 59 (2010), I dissent.

NOVEMBER 2, 2018

Miscellaneous Orders

No. 18A410. IN RE UNITED STATES ET AL. The Government seeks a stay of proceedings in the District Court pending disposition of a petition for a writ of mandamus, No. 18–505, ordering dismissal of the suit. In such circumstances, a stay is warranted if there is (1) "a fair prospect that a majority of the Court will vote to grant mandamus," and (2) "a likelihood that irreparable harm will result from the denial of a stay." *Hollingsworth* v. *Perry*, 558 U. S. 183, 190 (2010) (*per curiam*). Mandamus may issue when "(1) 'no other adequate means [exist] to attain the relief [the party] desires,' (2) the party's 'right to issuance of the writ is clear and indisputable,' and (3) 'the writ is appropriate under the circumstances.'" *Ibid.* (quoting *Cheney* v. *United States Dist. Court for D. C.*, 542 U. S. 367, 380–381 (2004)). "'The traditional use of the writ in aid of appellate jurisdiction . . . has been to confine [the court against which mandamus is sought] to a lawful exercise of its prescribed jurisdiction.'" *Id.*, at 380 (quoting *Roche* v. *Evaporated Milk Assn.*, 319 U. S. 21, 26 (1943)).

The Government contends that these standards are satisfied here because the litigation is beyond the limits of Article III. The Government notes that the suit is based on an assortment of unprecedented legal theories, such as a substantive due process right to certain climate conditions, and an equal protection right to live in the same climate as enjoyed by prior generations. The Government further points out that plaintiffs ask the District Court to create a "national remedial plan" to stabilize the climate and "restore [the] Earth's energy balance."

The District Court denied the Government's dispositive motions, stating that "[t]his action is of a different order than the typical environmental case. It alleges that defendants' actions and inactions—whether or not they violate any specific statutory duty—have so profoundly damaged our home planet that they threaten plaintiffs' fundamental constitutional rights to life and

liberty." *Juliana* v. *United States*, 217 F. Supp. 3d 1224, 1261 (Ore. 2016). The District Court declined to certify its orders for interlocutory review under 28 U. S. C. § 1292(b) (permitting such review when the district court certifies that its order "involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal . . . may materially advance the ultimate termination of the litigation"). See this Court's order of July 30, 2018, No. 18A65 [585 U. S. 1045] (noting that the "striking" breadth of plaintiffs' below claims "presents substantial grounds for difference of opinion").

At this time, however, the Government's petition for a writ of mandamus does not have a "fair prospect" of success in this Court because adequate relief may be available in the United States Court of Appeals for the Ninth Circuit. When mandamus relief is available in the court of appeals, pursuit of that option is ordinarily required. See this Court's Rule 20.1 (petitioners seeking extraordinary writ must show "that adequate relief cannot be obtained in any other form *or from any other court*" (emphasis added)); Rule 20.3 (mandamus petition must "set out with particularity why the relief sought is not available in any other court"); see also *Ex parte Peru*, 318 U. S. 578, 585 (1943) (mandamus petition "ordinarily must be made to the intermediate appellate court").

Although the Ninth Circuit has twice denied the Government's request for mandamus relief, it did so without prejudice. And the court's basis for denying relief rested, in large part, on the early stage of the litigation, the likelihood that plaintiffs' claims would narrow as the case progressed, and the possibility of attaining relief through ordinary dispositive motions. Those reasons are, to a large extent, no longer pertinent. The 50-day trial was scheduled to begin on October 29, 2018, and being held in abeyance only because of the current administrative stay.

In light of the foregoing, the application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, is denied without prejudice. The order heretofore entered by THE CHIEF JUSTICE is vacated. JUSTICE THOMAS and JUSTICE GORSUCH would grant the application.

No. 18A455. IN RE DEPARTMENT OF COMMERCE ET AL. D. C. S. D. N. Y. Application for stay, presented to JUSTICE GINSBURG, and by her referred to the Court, denied. JUSTICE THOMAS,

JUSTICE ALITO, and JUSTICE GORSUCH would grant the application.

No. 17–647. KNICK *v.* TOWNSHIP OF SCOTT, PENNSYLVANIA, ET AL. C. A. 3d Cir. [Certiorari granted, 583 U. S. 1166.] Case restored to the calendar for reargument. The parties and the Solicitor General are directed to file letter briefs, not to exceed 10 pages, addressing petitioner's alternative argument for vacatur, discussed at pages 12–15 and 40–42 of the transcript of oral argument and in footnote 14 of petitioner's brief on the merits. Briefs are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, November 30, 2018. Reply briefs, not to exceed four pages, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, December 21, 2018.

Certiorari Granted

No. 17–1606. SMITH *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 6th Cir. Certiorari granted. Reported below: 880 F. 3d 813.

No. 17–1679. GRAY *v.* WILKIE, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari granted. Reported below: 875 F. 3d 1102.

No. 17–1717. AMERICAN LEGION ET AL. *v.* AMERICAN HUMANIST ASSN. ET AL.; and

No. 18–18. MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION *v.* AMERICAN HUMANIST ASSN. ET AL. C. A. 4th Cir. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. Reported below: 874 F. 3d 195.

No. 17–8995. MONT *v.* UNITED STATES. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 723 Fed. Appx. 325.

No. 17–9572. FLOWERS *v.* MISSISSIPPI. Sup. Ct. Miss. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following question: "Whether the Mississippi Supreme Court erred in how it applied *Batson* v. *Kentucky*, 476 U. S. 79 (1986), in this case." Reported below: 240 So. 3d 1082.

NOVEMBER 5, 2018

Appeal Dismissed

No. 18–290. LAVERGNE ET AL. *v.* UNITED STATES HOUSE OF REPRESENTATIVES ET AL. Appeal from D. C. D. C. dismissed for want of jurisdiction.

Certiorari Dismissed

No. 18–5863. JOHNSON *v.* BUTLER LAW FIRM. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 712 Fed. Appx. 345.

No. 18–5873. OLIC *v.* SPEARMAN, WARDEN. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–5881. VURIMINDI *v.* HOOPSKIRT LOFTS CONDOMINIUM ASSN. Commw. Ct. Pa. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

Miscellaneous Orders

No. 18A365. KEYES *v.* BANKS. Cir. Ct. Letcher County, Ky. Application for stay, addressed to THE CHIEF JUSTICE and referred to the Court, denied.

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the River Master for fees and expenses granted, and the River Master is awarded a total of $14,242.82 for the period July 1, 2017, through June 30, 2018, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 583 U. S. 810.]

No. 17–1606. SMITH *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 6th Cir. [Certiorari granted, 586 U. S. 985.] Deepak Gupta, Esq., of Washington, D. C., is invited to brief and argue this case as *amicus curiae* in support of judgment below.

No. 18–5820. EVANS *v.* DELAWARE. Sup. Ct. Del. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 807] denied.

No. 18–6160. CARMODY *v.* BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until November 26, 2018, 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 Denied

No. 17–9218. CAIN *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 870 F. 3d 1003.

No. 18–121. ROTHERY ET AL. *v.* BLANAS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 700 Fed. Appx. 782.

No. 18–125. GRUSSGOTT *v.* MILWAUKEE JEWISH DAY SCHOOL, INC. C. A. 7th Cir. Certiorari denied. Reported below: 882 F. 3d 655.

No. 18–252. REAL ESTATE ALLIANCE LTD. *v.* MOVE, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 721 Fed. Appx. 950.

No. 18–259. CITY OF EAST CLEVELAND, OHIO, ET AL. *v.* WHEATT ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 302.

No. 18–262. XIU JIAN SUN *v.* MULLKOFF. C. A. 2d Cir. Certiorari denied.

No. 18–271. TROST ET UX. *v.* TROST. C. A. 6th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 875.

No. 18–276. BAKER *v.* MICROSOFT CORP. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 726 Fed. Appx. 800.

No. 18–278. KOZIOL, INDIVIDUALLY, AS NATURAL PARENT OF CHILD A ET AL., AND ON BEHALF OF PARENTS SIMILARLY SITUATED *v.* DIFIORE, CHIEF JUDGE, NEW YORK STATE UNIFIED COURT SYSTEM, ET AL. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied.

No. 18–282. TUCKER *v.* ATWATER ET AL. Ct. App. Ga. Certiorari denied. Reported below: 343 Ga. App. 301, 807 S. E. 2d 56.

No. 18–286. PRASAD *v.* LIGHTBOURNE ET AL. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–289. DEGENNARO *v.* AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 631.

No. 18–296. DIAZ *v.* SESSIONS, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 240.

No. 18–299. BRIGGS *v.* RENDLEN, JUDGE, UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF MISSOURI. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 930.

No. 18–314. CAPELLA PHOTONICS, INC. *v.* CISCO SYSTEMS, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 711 Fed. Appx. 642.

No. 18–346. ESTATE OF SMALLWOOD *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 717 Fed. Appx. 1007.

No. 18–371. WANG *v.* IANCU, DIRECTOR, UNITED STATES PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 737 Fed. Appx. 534.

No. 18–388. PARKER ET AL. *v.* IANCU, UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR, PATENT AND TRADEMARK OFFICE (two judgments). C. A. Fed. Cir. Certiorari denied. Reported below: 731 Fed. Appx. 979 (second judgment) and 980 (first judgment).

No. 18–411. OMIDI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 808.

No. 18–417. HARKONEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 705 Fed. Appx. 606.

No. 18–421. CEPEDA-CORTES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 3d 686.

No. 18–427. BAMDAD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–430. JONES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 893 F. 3d 66.

No. 18–5003. MULET *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 697.

No. 18–5105. MAKONNEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 905.

No. 18–5132. BRYANT *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 238 So. 3d 751.

No. 18–5182. BUTLER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 732.

No. 18–5303. MASON *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 153 Ohio St. 3d 476, 2018-Ohio-1462, 108 N. E. 3d 56.

No. 18–5393. MCMAHAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 665.

No. 18–5435. YBARRA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 660.

No. 18–5765. RUSSELL *v.* REDSTONE FEDERAL CREDIT UNION ET AL. (Reported below: 710 Fed. Appx. 830); and RUSSELL *v.* INGEGNERI ET AL. (713 Fed. Appx. 991). C. A. 11th Cir. Certiorari denied.

No. 18–5816. NASH *v.* BISHOP ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 332.

No. 18–5818. KILPATRICK *v.* KONDAVEETI. C. A. 2d Cir. Certiorari denied.

No. 18–5819. KILPATRICK *v.* FIELDS. C. A. 2d Cir. Certiorari denied.

No. 18–5827. KING *v.* NEALL, SECRETARY, MARYLAND DEPARTMENT OF HEALTH, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 221.

No. 18–5833. KILPATRICK *v.* VOLTERRA. C. A. 2d Cir. Certiorari denied.

No. 18–5834. KILPATRICK *v.* ROBINSON. C. A. 2d Cir. Certiorari denied.

No. 18–5841. RODRIGUEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–5862. ROSS *v.* CLERK OF COURTS OF THE COURT OF COMMON PLEAS OF PHILADELPHIA, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 864.

No. 18–5864. LEE *v.* PEERY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–5877. STOLTZFOOS *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 733 Fed. Appx. 34.

No. 18–5878. JAMERSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 581.

No. 18–5886. MITCHELL *v.* TAYLOR ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–5897. BRADDY *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 246 So. 3d 281.

No. 18–5903. JONES *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–5961. MARINO *v.* RICKARD, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 794.

No. 18–5962. MATTIS *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 244 So. 3d 1076.

No. 18–5977. RAFI *v.* YALE UNIVERSITY SCHOOL OF MEDICINE ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–5981. PASTOR *v.* PARTNERSHIP FOR CHILDREN'S RIGHTS. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 3d 910, 70 N. Y. S. 3d 65.

No. 18–5986. CALDWELL *v.* PAYNE, SUPERINTENDENT, EASTERN RECEPTION, DIAGNOSTIC AND CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6037. ZAVALA *v.* RIOS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 720.

No. 18–6040. THORNBERRY *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 18–6051. BENDER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6074. KURI *v.* KANSAS DEPARTMENT OF LABOR, EMPLOYMENT SECURITY BOARD OF REVIEW. Ct. App. Kan. Certiorari denied. Reported below: 55 Kan. App. 2d xiii, 405 P. 3d 1247.

No. 18–6081. CAMACHO *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 888 Fed. Appx. 389.

No. 18–6088. BURRIS *v.* RAMEY, SUPERINTENDENT, JEFFERSON CITY CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6093. TATE *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 459 Md. 587, 187 A. 3d 660.

No. 18–6138. FOX *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–6139. FRIAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 893 F. 3d 1268.

No. 18–6141. TOWNE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6149. POLK *v.* LEWIS, SUPERINTENDENT, SOUTHEAST CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6155. LEMUS CERNA, AKA LEMUS ALFARO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 3d 593.

No. 18–6156. MEDINA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 777.

No. 18–6159. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 3d 242.

No. 18–6161. LOMBARD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6163. JONES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6165. RINEHART *v.* OHIO. Ct. App. Ohio, 4th App. Dist., Ross County. Certiorari denied. Reported below: 2018-Ohio-1261.

No. 18–6169. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6178. CLARK *v.* RAMEY, SUPERINTENDENT, JEFFERSON CITY CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6180. DERONCELER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 683.

No. 18–6184. BARNES *v.* MASTERS, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 93.

No. 18–6186. GAITAN BENITEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 894 F. 3d 593.

No. 18–6188. LUCERO *v.* COLORADO DEPARTMENT OF CORRECTIONS. Sup. Ct. Colo. Certiorari denied.

No. 18–6190. SWENSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 3d 677.

No. 18–6193. WHITE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6197. MEDINA ORTIZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6198. ACOSTA-JOAQUIN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 894 F. 3d 60.

No. 18–6201. DEANGELIS *v.* PLUMLEY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 290.

No. 18–6204. FRANKLIN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6205. GUEVARA-GUEVARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 348.

No. 18–6206. HOWARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 526.

No. 18–6208. HEMSHER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 893 F. 3d 525.

No. 18–6209. WERBACH *v.* UNIVERSITY OF ARKANSAS ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 801.

No. 18–6215. PERAGINE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 498.

No. 18–6216. MULENGA *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 185 A. 3d 720.

No. 18–6222. BACON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 884 F. 3d 605.

No. 18–6225. BUMMER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 721.

No. 18–6226. FOREST *v.* LEWIS, SUPERINTENDENT, SOUTHEAST CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6229. WAIRI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–6232. JOHNSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 153.

No. 18–6240. JOHNSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–6241. JEWELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6242. LOCKE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6251. PEBLEY *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 18–6266. RIVERA-SOLIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 207.

No. 18–6267. ROBERTSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 3d 1206.

No. 18–6268. KING *v.* KILPATRICK, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–6271. SCOTT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 244.

No. 18–6277. YAWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 881.

No. 18–6279. KWUSHUE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 693.

No. 18–6280. STEWART *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 254.

No. 18–6282. DIXON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 627.

No. 17–498. BERNINGER *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 17–499. AT&T INC. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 17–500. AMERICAN CABLE ASSN. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 17–501. CTIA–THE WIRELESS ASSN. ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 17–502. NCTA–THE INTERNET AND TELEVISION ASSN. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.;

No. 17–503. TECHFREEDOM ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL.; and

No. 17–504. UNITED STATES TELECOM ASSN. ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE THOMAS, JUSTICE ALITO, and JUSTICE GORSUCH would grant the petitions, vacate the judgment, and remand with instructions to dismiss the cases as moot. See *United States* v. *Munsingwear, Inc.*, 340 U. S. 36 (1950). THE CHIEF JUSTICE and JUSTICE KAVANAUGH took no part in the consideration or decision of these petitions. Reported below: 825 F. 3d 674.

No. 18–275. SMITH ET AL. *v.* CLINTON ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 886 F. 3d 122.

No. 18–325. GEHRMANN ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 731 Fed. Appx. 792.

No. 18–334. MEDINA DEL ROSARIO ET AL. *v.* WELLS FARGO BANK, N. A., AS TRUSTEE, ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 714 Fed. Appx. 722.

No. 18–5932. JONES *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 18–6094. GARCIA-MARTINEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 730 Fed. Appx. 665.

No. 18–6213. BAXTER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

NOVEMBER 6, 2018

Miscellaneous Orders

No. 17–961. FRANK ET AL. *v.* GAOS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. C. A. 9th Cir. [Certiorari granted, 584 U. S. 958.] The parties and the Solicitor General are directed to file supplemental briefs addressing whether any named plaintiff has standing such that the federal courts have Article III jurisdiction over this dispute. Briefs, not to exceed 6,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, November 30, 2018. Reply briefs, not to exceed 3,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, December 21, 2018.

No. 18–557. IN RE DEPARTMENT OF COMMERCE ET AL. Respondents are directed to file a response to the petition on or before 5 p.m., Tuesday, November 13, 2018. Petitioners may file a reply brief on or before 2 p.m., Thursday, November 15, 2018.

Amicus curiae briefs may be filed on or before 5 p.m., Tuesday, November 13, 2018.

NOVEMBER 13, 2018

Miscellaneous Orders

No. 18M61. HENDRICKS *v.* BINGHAM ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 18M62. RODWELL *v.* MASSACHUSETTS. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 18–5955. IN RE TURNER. Petition for writ of prohibition denied.

Probable Jurisdiction Postponed

No. 18–281. VIRGINIA HOUSE OF DELEGATES ET AL. *v.* BETHUNE-HILL ET AL. Appeal from D. C. E. D. Va. Further consideration of question of jurisdiction postponed to hearing of case on the merits. In addition to the questions presented by the jurisdictional statement, the parties are directed to fully brief the following question: "Whether appellants have standing to bring this appeal." Reported below: 326 F. Supp. 3d 128.

Certiorari Granted

No. 17–1705. PDR NETWORK, LLC, ET AL. *v.* CARLTON & HARRIS CHIROPRACTIC, INC. C. A. 4th Cir. Certiorari granted limited to the following question: "Whether the Hobbs Act required the District Court in this case to accept the FCC's legal interpretation of the Telephone Consumer Protection Act." Reported below: 883 F. 3d 459.

Certiorari Denied

No. 17–8719. DE VERA *v.* UNITED AIRLINES, INC. C. A. 9th Cir. Certiorari denied. Reported below: 689 Fed. Appx. 575.

No. 17–9105. DEBEIKES *v.* HAWAIIAN AIRLINES, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 499.

No. 17–9295. JEANTY *v.* NEW YORK CITY DEPARTMENT OF FINANCE. C. A. 2d Cir. Certiorari denied. Reported below: 709 Fed. Appx. 89.

No. 17–9306. TRINH *v.* TRINH. Super. Ct. Pa. Certiorari denied.

No. 17–9339. SILVA MEDINA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–29. BHAWNANI ET AL. *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–37. SECURIFORCE INTERNATIONAL AMERICA, LLC *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 879 F. 3d 1354.

No. 18–50. CARTY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 543 S. W. 3d 149.

No. 18–73. CARPENTER *v.* JORDAN. C. A. 6th Cir. Certiorari denied. Reported below: 885 F. 3d 413.

No. 18–119. GOTECH INTERNATIONAL TECHNOLOGY LTD. ET AL. *v.* NAGRAVISION SA. C. A. 5th Cir. Certiorari denied. Reported below: 882 F. 3d 494.

No. 18–244. WOIDE ET AL. *v.* FEDERAL NATIONAL MORTGAGE ASSOCIATION. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 731.

No. 18–269. MAPUATULI ET AL. *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 730.

No. 18–279. KONARSKI, DBA FGPJ APARTMENTS AND DEVELOPMENT, ET AL. *v.* CITY OF TUCSON, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 609.

No. 18–305. KIRBY *v.* OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 48.

No. 18–310. TUCKER *v.* LCP-MAUI, LLC. Int. Ct. App. Haw. Certiorari denied. Reported below: 142 Haw. 149, 414 P. 3d 201.

No. 18–316. WEESE *v.* MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 271.

No. 18–318. KOUTENTIS *v.* NEW YORK CITY POLICE DEPARTMENT, LICENSING DIVISION. App. Div., Sup. Ct. N. Y., 1st Jud.

Dept. Certiorari denied. Reported below: 158 App. Div. 3d 542, 68 N. Y. S. 3d 722.

No. 18–320. CEH Energy, LLC, et al. *v.* Kean Miller, LLP, et al. C. A. 5th Cir. Certiorari denied.

No. 18–322. Miner *v.* Illinois Attorney Registration and Disciplinary Commission. Sup. Ct. Ill. Certiorari denied.

No. 18–345. Xiu Jian Sun *v.* Newman et al. C. A. 2d Cir. Certiorari denied.

No. 18–347. West Congress Street Partners, LLC *v.* Rivertown Development, LLC, et al. C. A. 6th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 778.

No. 18–350. Brown *v.* South Carolina. Sup. Ct. S. C. Certiorari denied. Reported below: 423 S. C. 519, 815 S. E. 2d 761.

No. 18–352. South Carolina *v.* Young. Ct. App. S. C. Certiorari denied.

No. 18–353. Clark *v.* Southwest Airlines Co. C. A. 5th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 442.

No. 18–372. Coddington *v.* Nevada. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 925, 415 P. 3d 12.

No. 18–400. Hoskins *v.* Fuchs. Ct. App. Tex., 2d Dist. Certiorari denied. Reported below: 517 S. W. 3d 834.

No. 18–402. Pezhman *v.* Chanel et al. Ct. App. N. Y. Certiorari denied. Reported below: 32 N. Y. 3d 1018, 111 N. E. 3d 320.

No. 18–403. Shear *v.* MAZ Partners, LP, Individually and on Behalf of All Others Similarly Situated. C. A. 1st Cir. Certiorari denied. Reported below: 894 F. 3d 419.

No. 18–429. Germinaro et al. *v.* Fidelity National Title Insurance Co. et al. C. A. 3d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 96.

No. 18–435. LabMD, Inc. *v.* Tiversa, Inc. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 878.

No. 18–439. JANANGELO *v.* TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION. C. A. 9th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 660.

No. 18–440. NERO ET AL. *v.* MOSBY. C. A. 4th Cir. Certiorari denied. Reported below: 890 F. 3d 106.

No. 18–449. PHARMAVITE LLC *v.* BRADACH. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 251.

No. 18–454. DINGER *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 77 M. J. 447.

No. 18–455. EMINETH *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 290 Ore. App. 720, 414 P. 3d 498.

No. 18–456. PERSICO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 732 Fed. Appx. 44.

No. 18–467. FLETCHER ET AL. *v.* HONEYWELL INTERNATIONAL, INC. C. A. 6th Cir. Certiorari denied. Reported below: 892 F. 3d 217.

No. 18–509. KINNEY *v.* STATE BAR OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 409.

No. 18–5137. DANIEL *v.* BROOKLYN LAW SCHOOL. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 153 App. Div. 3d 708, 60 N. Y. S. 3d 308.

No. 18–5223. RATCLIFF *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 894.

No. 18–5487. SOTO *v.* SWEETMAN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 882 F. 3d 865.

No. 18–5517. GALLARDO *v.* ARIZONA. Super. Ct. Ariz., County of Maricopa. Certiorari denied.

No. 18–5534. CARRASQUILLA-LOMBADA ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 685 Fed. Appx. 761.

No. 18–5537. OPENGEYM *v.* HEARTLAND EMPLOYMENT SERVICES, LLC. C. A. 6th Cir. Certiorari denied.

No. 18–5548. TUTTLE *v.* ALLIED NEVADA GOLD CORP. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 725 Fed. Appx. 144.

No. 18–5888. MORRISON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5891. WHITNEY *v.* GUTERRES, SECRETARY GENERAL OF THE UNITED NATIONS, ET AL. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 133.

No. 18–5892. JACKSON *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2018-Ohio-276, 105 N. E. 3d 472.

No. 18–5906. KILPATRICK *v.* WEISS. C. A. 2d Cir. Certiorari denied.

No. 18–5907. KILPATRICK *v.* ELIA, COMMISSIONER, NEW YORK STATE DEPARTMENT OF EDUCATION. C. A. 2d Cir. Certiorari denied.

No. 18–5908. KILPATRICK *v.* ZUCKER, COMMISSIONER, NEW YORK STATE DEPARTMENT OF HEALTH, OFFICE OF PROFESSIONAL MEDICAL CONDUCT; and KILPATRICK *v.* DRESLIN, EXECUTIVE DEPUTY COMMISSIONER, NEW YORK STATE DEPARTMENT OF HEALTH, OFFICE OF PROFESSIONAL MEDICAL CONDUCT. C. A. 2d Cir. Certiorari denied.

No. 18–5909. SOLDRIDGE *v.* MAHALLY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT DALLAS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5919. MARTIN *v.* BROWN ET AL.; and MARTIN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–5920. ROLLAND *v.* CARNATION BUILDING SERVICES, INC. C. A. 10th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 920.

No. 18–5926. WILKINS *v.* LANE, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FAYETTE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5927. J. A. *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. Reported below: 233 N. J. 432, 186 A. 3d 266.

No. 18–5931. LASCHKEWITSCH *v.* LEGAL & GENERAL AMERICA, INC., DBA BANNER LIFE INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 252.

No. 18–5936. JOHNSON *v.* WILLIAMS, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 238.

No. 18–5938. BAILEY *v.* NAGY, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 425.

No. 18–5947. ROBERSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5958. WILMOT *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied.

No. 18–5963. KASSAB *v.* SKINNER ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 877.

No. 18–5989. BILBO *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5990. BROCKMAN *v.* BALCARCEL, ACTING WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5991. BENNETT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–5993. BURNS *v.* HORTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5995. WEBB *v.* HARRISON, SHERIFF, WAKE COUNTY, NORTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 225.

No. 18–5999. BAILEY *v.* LOUISIANA. Ct. App. La., 2d Cir. Certiorari denied. Reported below: 51,627 (La. App. 2 Cir. 9/27/17), 245 So. 3d 145.

No. 18–6039. TAYLOR *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 18–6050. RODRIGUEZ *v.* BURTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6056. BLEVINS *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 244 So. 3d 1084.

No. 18–6058. REEVES *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 18–6126. VILLAVERDE *v.* SMITH, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6181. PATINO *v.* RHODE ISLAND. Sup. Ct. R. I. Certiorari denied. Reported below: 188 A. 3d 646.

No. 18–6183. LYNCH *v.* HALL, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6196. TUNSTALL *v.* WOLFE, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 251.

No. 18–6235. LANE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–6246. PARNELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 745.

No. 18–6248. MERCEDES-RIJO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–6255. ODEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6256. MOCK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 545.

No. 18–6260. TRAVERSO *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 237 Md. App. 760.

No. 18–6270. LYNCH *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2018-Ohio-1078, 109 N. E. 3d 628.

No. 18–6283. COLE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 749.

No. 18–6284. CHURCHWELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6285. CHAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 728.

No. 18–6293. MARTINEZ-REY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 266.

No. 18–6297. ROBLES-AVALOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 3d 405.

No. 18–6299. DUNNING *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 261.

No. 18–6300. SINGLETON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 947.

No. 18–6301. DANCY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6302. MELGAR-CABRERA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 892 F. 3d 1053.

No. 18–6303. PENDLETON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 3d 978.

No. 18–6304. MCCOY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 895 F. 3d 358.

No. 18–6308. HERNANDEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 894 F. 3d 496.

No. 18–6313. WASHINGTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 895 F. 3d 410.

No. 18–6314. KHOUANMANY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 514.

No. 18–6317. TURNER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 687.

No. 18–6322. MEDINA OSORIO *v.* UNITED STATES (Reported below: 734 Fed. Appx. 922); VELASQUEZ-RIOS *v.* UNITED STATES (731 Fed. Appx. 358); and VEGA-ZAPATA *v.* UNITED STATES (735 Fed. Appx. 135). C. A. 5th Cir. Certiorari denied.

No. 18–6324. COLEMAN *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 18–6328. HUNTER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6348. PENCE *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2018 IL App (2d) 151102, 100 N. E. 3d 218.

No. 18–6362. LETT *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 17–9284. GUARDADO *v.* FLORIDA. Sup. Ct. Fla. Reported below: 238 So. 3d 162;
No. 17–9556. PHILMORE *v.* FLORIDA. Sup. Ct. Fla. Reported below: 234 So. 3d 567;
No. 18–5160. TANZI *v.* FLORIDA. Sup. Ct. Fla. Reported below: 251 So. 3d 805;
No. 18–5228. FRANKLIN *v.* FLORIDA. Sup. Ct. Fla. Reported below: 236 So. 3d 989;
No. 18–5518. GRIM *v.* FLORIDA. Sup. Ct. Fla. Reported below: 244 So. 3d 147; and
No. 18–5793. JOHNSTON *v.* FLORIDA. Sup. Ct. Fla. Reported below: 246 So. 3d 266. Certiorari denied.

JUSTICE THOMAS, concurring.

I concur for the reasons set out in *Reynolds* v. *Florida*, 586 U. S. 1004, 1008 (2018) (THOMAS, J., concurring in denial of certiorari).

JUSTICE SOTOMAYOR, dissenting.

I dissent for the reasons set out in *Reynolds* v. *Florida*, 586 U. S. 1004, 1011 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

No. 18–153. LOUISIANA PUBLIC SERVICE COMMISSION *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 883 F. 3d 929.

No. 18–283. COLEMAN ET AL. *v.* CAMPBELL COUNTY LIBRARY BOARD OF TRUSTEES. Ct. App. Ky. Motion of the New England Legal Foundation for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 547 S. W. 3d 526.

No. 18–301. CHIEFTAIN ROYALTY CO. *v.* NUTLEY ET AL. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 888 F. 3d 455.

No. 18–5181. REYNOLDS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 251 So. 3d 811.

Statement of JUSTICE BREYER respecting the denial of certiorari.

This case, along with 83 others in which the Court has denied certiorari in recent weeks, asks us to decide whether the Florida Supreme Court erred in its application of this Court's decision in *Hurst* v. *Florida*, 577 U. S. 92 (2016). In *Hurst*, this Court concluded that Florida's death penalty scheme violated the Constitution because it required a judge rather than a jury to find the aggravating circumstances necessary to impose a death sentence. The Florida Supreme Court now applies *Hurst* retroactively to capital defendants whose sentences became final after this Court's earlier decision in *Ring* v. *Arizona*, 536 U. S. 584 (2002), which similarly held that the death penalty scheme of a different State, Arizona, violated the Constitution because it required a judge rather than a jury to find the aggravating circumstances necessary to impose a death sentence. The Florida Supreme Court has declined, however, to apply *Hurst* retroactively to capital defendants whose sentences became final before *Ring*. *Hitchcock* v. *State*, 226 So. 3d 216, 217 (2017). As a result, capital defendants whose sentences became final before 2002 cannot prevail on a "*Hurst*-is-retroactive" claim.

Many of the Florida death penalty cases in which we have denied certiorari in recent weeks involve—directly or indirectly—three important issues regarding the death penalty as it is currently administered. *First*, these cases highlight what I have previously described as a serious flaw in the death penalty system: the unconscionably long delays that capital defendants must endure as they await execution. Henry Sireci, the petitioner in one case we recently denied, was first sentenced to death in 1976. He has lived in prison under threat of execution for nearly 42 years. Unfortunately, Sireci is far from alone in having endured lengthy delays. The Court has recently denied petitions from at least 10 other capital defendants in Florida who have lived under a death sentence for more than 30 years, and from at least 50 other capital defendants who have lived under a death sentence for more than 20 years. I have previously written that lengthy delays—made inevitable by the Constitution's procedural protections for defendants facing execution—deepen the cruelty of the death penalty and undermine its penological rationale. *Glossip* v. *Gross*, 576 U. S. 863, 925 (2015) (dissenting opinion); see *Dunn*

v. *Madison*, 583 U. S. 10, 15 (2017) (concurring opinion); *Smith* v. *Ryan*, 581 U. S. 954, 955 (2017) (statement respecting denial of certiorari); *Sireci* v. *Florida*, 580 U. S. 1036, 1037 (2016) (opinion dissenting from denial of certiorari). I remain of that view. However, because the petitioners in these cases did not squarely raise the delay issue, I do not vote to grant certiorari on that basis here.

Second, many of these cases raise the question whether the Constitution demands that *Hurst* be made retroactive to all cases on collateral review, not just to cases involving death sentences that became final after *Ring*. I believe the retroactivity analysis here is not significantly different from our analysis in *Schriro* v. *Summerlin*, 542 U. S. 348 (2004), where we held that *Ring* does not apply retroactively. Although I dissented in *Schriro*, I am bound by the majority's holding in that case. I therefore do not dissent on that ground here.

Third, several of the cases in which we deny certiorari today, including this one, indirectly raise the question whether the Eighth Amendment requires a jury rather than a judge to make the ultimate decision to sentence a defendant to death. See *Guardado* v. *Florida*, No. 17–9284; *Philmore* v. *Florida*, No. 17–9556; *Tanzi* v. *Florida*, No. 18–5160; *Franklin* v. *Florida*, No. 18–5228; *Grim* v. *Florida*, No. 18–5518; *Johnston* v. *Florida*, No. 18–5793. In these cases, the Florida Supreme Court treated *Hurst* errors as harmless in significant part because the jury in each case unanimously recommended that the defendant be sentenced to death. The problem, however, is that the defendants in these cases were sentenced to death under a scheme that required the judge to make the ultimate decision to impose the death penalty, and in which the jury was repeatedly instructed that its recommended verdict would be advisory. As I have previously written, I believe that this scheme violates the Eighth Amendment. See *Middleton* v. *Florida*, 583 U. S. 1162 (2018) (opinion dissenting from denial of certiorari); *Hurst*, *supra*, at 103 (opinion concurring in judgment); *Ring*, *supra*, at 619 (same). Because juries are better suited than judges to "express the conscience of the community on the ultimate question of life or death," the Constitution demands that jurors make, and take responsibility for, the ultimate decision to impose a death sentence. *Witherspoon* v. *Illinois*, 391 U. S. 510, 519 (1968).

Although these cases do not squarely present the general question whether the Eighth Amendment requires jury sentencing, they do present a closely related question: whether the Florida Supreme Court's harmless-error analysis violates the Eighth Amendment because it "rest[s] a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." *Caldwell* v. *Mississippi*, 472 U. S. 320, 328–329 (1985). For the reasons set out in JUSTICE SOTOMAYOR's dissent, *post*, at 1011–1016, I believe the Court should grant certiorari on that question in an appropriate case. That said, I would not grant certiorari on that question here. In many of these cases, the Florida Supreme Court did not fully consider that question, or the defendants may not have properly raised it. That may ultimately impede, or at least complicate, our review.

Nonetheless, the three issues raised by these cases draw into focus a more basic point I made in *Schriro*: A death sentence should reflect a jury's "community-based judgment that the sentence constitutes proper retribution." 542 U. S., at 360 (dissenting opinion). It seems to me that the jurors in at least some of these cases might not have made a "community-based judgment" that a death sentence was "proper retribution" had they known at the time of sentencing (1) that the death penalty might not be administered for another 40 years or more; (2) that other defendants who were sentenced years later would be entitled to resentencing based on a later-discovered error, but that the defendants in question would not be entitled to the same remedy for roughly the same error; or (3) that the jury's death recommendation would be treated as if it were decisive, despite the judge's instruction that the jury's recommendation was merely advisory. Had jurors known about these issues at the time of sentencing, some might have hesitated before recommending a death sentence. At least a few might have recommended a life sentence instead. The result is that some defendants who have lived under threat of execution for decades might never have been sentenced to death in the first place.

The flaws in the current practice of capital punishment could often cast serious doubt on the death sentences imposed in these and other capital cases. Rather than attempting to address the flaws in piecemeal fashion, however, I remain of the view that "it

would be wiser to reconsider the root cause of the problem—the constitutionality of the death penalty itself." *Madison*, *supra*, at 16 (BREYER, J., concurring).

JUSTICE THOMAS, concurring.

On the night of July 21, 1998, petitioner Michael Gordon Reynolds murdered nearly an entire family. While the father, Danny Ray Privett, relieved himself outside the family's camping trailer, petitioner snuck up behind him and "viciously and deliberately battered [his] skull with a piece of concrete." *Reynolds* v. *State*, 934 So. 2d 1128, 1157 (Fla. 2006) (*Reynolds I*). Petitioner would later explain: "'[W]ith my record'"—which included aggravated robbery, aggravated assault, and aggravated battery—"'I couldn't afford to leave any witnesses.'" *Id.*, at 1149, 1157. So petitioner entered the trailer, where he brutally beat, stabbed, and murdered Privett's girlfriend, Robin Razor, and their 11-year-old daughter, Christina Razor. Robin "suffered multiple stab wounds along with multiple blows to the side of her face and a broken neck resulting in injuries to her spinal cord." *Id.*, at 1136. She desperately fought back, suffering "significant defensive wounds" and "torment wounds"—shallow slashes that occur when "the perpetrator tak[es] a depraved, measured approach to the infliction of the injury and tak[es] pleasure in his cruel activity." *Id.*, at 1136, 1153. Eleven-year-old Christina also resisted, suffering "blunt force trauma to her head, a stab wound to the base of her neck that pierced her heart, and another stab wound to her right shoulder that pierced her lung and lacerated her pulmonary artery." *Id.*, at 1136. Only petitioner knows whether Robin had to watch her daughter die, or whether Christina had to watch her mother die. "Regardless, in the close confines of that cramped camping trailer, Christina Razor, in great pain and fear, was forced to fight a losing battle for her life knowing that either her mother had already been killed and she was next or that after Reynolds killed her, he was sure to end her mother's life." *Id.*, at 1154. "For a child to experience the fear, terror and emotional strain that accompanied Christina Razor as she fought for her life, knowing full well that she was fighting a losing battle, is unimaginable, heinous, atrocious and cruel." *Ibid.* "Christina was found not wearing any underwear," and petitioner's DNA was matched to both a pubic hair and Christina's underwear, both found near her body. *Reynolds* v. *State*, 99 So. 3d 459, 487–488,

501 (Fla. 2012). The sole surviving family member, Danielle, "was spared only because she was spending the night with a friend." Stutzman, Judge Gives Killer Death Sentence, Orlando Sentinel, Sept. 20, 2003, p. B7, col. 1. Danielle was devastated; "she wished she'd been home that night" to "f[ight] the attacker and tr[y] to save her sister and parents" or "di[e] alongside them." *Ibid.*

JUSTICE BREYER worries that the jurors here "might not have made a 'community-based judgment' that a death sentence was 'proper retribution' had they known" of his concerns with the death penalty. *Ante*, at 1007 (statement respecting denial of certiorari). In light of petitioner's actions, I have no such worry, and I write separately to alleviate JUSTICE BREYER's concerns.*

*JUSTICE BREYER cites several other cases in which we have denied certiorari today. *Ante*, at 1006. He need not worry about the jury's decisions in those cases either. In *Guardado* v. *Florida*, No. 17–9284, petitioner, in need of money to "continue his recent crack cocaine binge," went to the home of a 75-year-old woman who had given him repeated assistance, struck her over and over with a "'breaker bar,'" and when "'she would not die,'" "pulled [a] kitchen knife and stabbed her several times, then slashed her throat." *Guardado* v. *State*, 965 So. 2d 108, 110–111 (Fla. 2007). In *Philmore* v. *Florida*, No. 17–9556, petitioner, in need of a getaway car for a planned bank robbery, asked the victim if he could use her phone, then pushed himself into her car, drove her to "an isolated area," "ordered her to walk towards high vegetation," and "shot her once in the head." *Philmore* v. *State*, 820 So. 2d 919, 923–924 (Fla. 2002). In *Tanzi* v. *Florida*, No. 18–5160, petitioner carjacked his victim by "punch[ing] her in the face until he gained entry," "forced [her] to perform oral sex," then "told [her] that he was going to kill her," put "duct tape over her mouth, nose, and eyes," and "strangle[d her] until she died." *Tanzi* v. *State*, 964 So. 2d 106, 110–111 (Fla. 2007). In *Franklin* v. *Florida*, No. 18–5228, petitioner stole a woman's car after invading her home and bashing her on the head with a hammer (leaving her "unable to live on her own"), asked a security guard at a local store for driving directions, bragged that he was going to come back and "'get'" the guard, and did just that, shooting the guard once in the back. *Franklin* v. *State*, 965 So. 2d 79, 84 (Fla. 2007). In *Grim* v. *Florida*, No. 18–5518, petitioner invited his neighbor over for coffee and then "repeatedly attacked [her] with a hammer, stabbed [her] multiple times," "forcefully inserted [an object] into her vagina," and dumped her body in Pensacola Bay. *Grim* v. *State*, 971 So. 2d 85, 89–90, 93 (Fla. 2007). Finally, in *Johnston* v. *Florida*, No. 18–5793, petitioner kidnaped his victim, "bea[t], raped, and manually strangled [her], then dragged her to a pond and left her nude, floating face down." *Johnston* v. *State*, 63 So. 3d 730, 735 (Fla. 2011).

JUSTICE BREYER's first concern is "that the death penalty might not be administered for another 40 years or more" after the jury's verdict. *Ante,* at 1007. That is a reason to carry out the death penalty sooner, not to decline to impose it. In any event, petitioner evidently is not bothered by delay. Petitioner has litigated all the way through the state courts and petitioned this Court for review three separate times. He can avoid "endur-[ing]" an "unconscionably long dela[y]," *ante,* at 1005, "by submitting to what the people of Florida have deemed him to deserve: execution," *Foster* v. *Florida*, 537 U. S. 990, 991 (2002) (THOMAS, J., concurring in denial of certiorari). "It makes 'a mockery of our system of justice for a convicted murderer, who, through his own interminable efforts of delay has secured the almost-indefinite postponement of his sentence, to then claim that the almost-indefinite postponement renders his sentence unconstitutional.'" *Thompson* v. *McNeil*, 556 U. S. 1114, 1117 (2009) (THOMAS, J., concurring in denial of certiorari) (quoting *Turner* v. *Jabe*, 58 F. 3d 924, 933 (CA4 1995) (Luttig, J., concurring in judgment); alterations omitted).

It is no mystery why it often takes decades to execute a convicted murderer. The "labyrinthine restrictions on capital punishmen[t] promulgated by this Court" have caused the delays that JUSTICE BREYER now bemoans. *Glossip* v. *Gross*, 576 U. S. 863, 898 (2015) (Scalia, J., concurring); see *Knight* v. *Florida*, 528 U. S. 990, 991 (1999) (THOMAS, J., concurring in denial of certiorari). As "the Drum Major in this parade" of new precedents, JUSTICE BREYER is not well positioned to complain about their inevitable consequences. *Glossip*, *supra,* at 898 (Scalia, J., concurring).

JUSTICE BREYER's second concern is that petitioner's jury might have declined to impose the death penalty if it had known that other capital defendants "would be entitled to resentencing," while petitioner himself would not be resentenced. *Ante,* at 1007. What this has to do with the original jury's judgment as to "'proper retribution,'" *ibid.*, is beyond me. Petitioner murdered Danielle Privett's entire family. Whether he deserves to be sentenced to death has nothing to do with whether a different person who engaged in different conduct might be entitled to be resentenced on procedural grounds. Moreover, if petitioner *had* been resentenced, and was again sentenced to death, I have little doubt

that JUSTICE BREYER would instead be fretting that the original jury failed to consider his belief that resentencing "sharpen[s]" "[d]eath row's inevitable anxieties and uncertainties." *Foster*, *supra*, at 993 (opinion dissenting from denial of certiorari).

JUSTICE BREYER's third concern is that petitioner was "sentenced to death under a scheme that required the judge to make the ultimate decision to impose the death penalty, and in which the jury was repeatedly instructed that its recommended verdict would be advisory." *Ante*, at 1006. Once again, petitioner did not share JUSTICE BREYER's concern. "After thorough consultation with his attorneys and the trial court," petitioner waived "his right to a jury's penalty recommendation as to the appropriate sentence" and "waived the presentation of mitigating evidence before the penalty phase jury." *Reynolds I*, 934 So. 2d, at 1138, 1148. When the trial court did not allow petitioner to waive the jury's involvement, petitioner appealed, arguing that "the trial court abused its discretion and committed reversible error when it refused to honor" his waiver. *Id.*, at 1147–1148.

Contrary to JUSTICE BREYER's suggestion that the jury did not feel an adequate sense of "responsibility" for its recommendation, *ante*, at 1006, the jury was instructed that a "'human life is at stake'" and that the trial court could reject the jury's recommendation "'only if the facts [are] so clear and convincing that virtually no reasonable person could differ.'" 251 So. 3d 811, 813, 828 (Fla. 2018) (*per curiam*). The jury was further instructed that its recommendation did not need to be unanimous. *Id.*, at 815. Nonetheless, the jury returned not one but two unanimous death recommendations. *Ibid.*

JUSTICE BREYER's final (and actual) concern is with the "'death penalty itself.'" *Ante*, at 1008. As I have elsewhere explained, "it is clear that the Eighth Amendment does not prohibit the death penalty." *Baze* v. *Rees*, 553 U. S. 35, 94 (2008) (opinion concurring in judgment); see *Glossip*, *supra*, at 899–901, and n. 1 (THOMAS, J., concurring). The only thing "cruel and unusual" in this case was petitioner's brutal murder of three innocent victims.

JUSTICE SOTOMAYOR, dissenting.

Today, this Court denies the petitions of seven capital defendants, each of whom was sentenced to death under a capital sentencing scheme that this Court has since declared unconstitu-

tional.[1] The Florida Supreme Court has left petitioners' death sentences undisturbed, reasoning that any sentencing error in their cases was harmless. Petitioners challenge the Florida Supreme Court's analysis because it treats the fact of unanimous jury recommendations in their cases as highly significant, or legally dispositive, even though those juries were told repeatedly that their verdicts were merely advisory. I have dissented before from this Court's failure to intervene on this issue.[2] Petitioners' constitutional claim is substantial and affects numerous capital defendants. The consequence of error in these cases is too severe to leave petitioners' challenges unanswered, and I therefore would grant the petitions.

I

I begin by acknowledging that petitioners have been convicted of gruesome crimes. Their victims, and the families and communities of those victims, have suffered. I am cognizant of their suffering. I am also mindful that it is this Court's duty to ensure that all defendants, even those who have committed the most heinous crimes, receive a sentence that is the result of a fair process. It is with that responsibility in mind that I analyze petitioners' challenges.

II

Like the petitioners described in my prior dissents, each petitioner here was sentenced pursuant to Florida's former sentencing scheme. That regime involved an evidentiary hearing before a jury, after which the jury would issue an advisory sentence for life or death. See *Hurst* v. *Florida*, 577 U. S. 92, 95–96 (2016).

---

[1] In addition to Reynolds' petition, this Court denies the petitions of Jesse Guardado, No. 17–9284; Lenard James Philmore, No. 17–9556; Michael Anthony Tanzi, No. 18–5160; Quawn M. Franklin, No. 18–5228; Norman Mearle Grim, No. 18–5518; and Ray Lamar Johnston, No. 18–5793. For the reasons expressed herein, I respectfully dissent from denial of certiorari in their cases as well.

[2] I thrice dissented because the Florida Supreme Court had failed even to address the significant constitutional question petitioners raised. See *Guardado* v. *Jones*, 584 U. S. 922 (2018) (opinion dissenting from denial of certiorari); *Middleton* v. *Florida*, 583 U. S. 1162 (2018) (same); *Truehill* v. *Florida*, 583 U. S. 938, 939 (2017) (same). I dissented again after the Florida Supreme Court ultimately did take up the question, and I noted the need for a definitive resolution of the issue. *Kaczmar* v. *Florida*, 585 U. S. 1011 (2018) (same).

Next, the judge independently decided whether aggravating and mitigating factors existed, weighed those factors, and entered a sentence of life or death. *Id.*, at 96. In *Hurst*, this Court held that Florida's scheme violated the Sixth Amendment because it impermissibly allowed a judge to increase the punishment authorized for a defendant "based on her own factfinding." *Id.*, at 99.

Petitioners sought relief from the Florida courts after *Hurst* was decided. Although the Florida Supreme Court assumed that *Hurst* errors had occurred in petitioners' cases, it concluded that any such errors were harmless—in other words, there was "no reasonable possibility" that the errors affected petitioners' sentences. 251 So. 3d 811, 815 (2018) (*per curiam*) (case below).

In theory, the Florida Supreme Court's harmless-error analysis turns on an individualized review of each case. See *id.*, at 816. And, indeed, in some cases the Florida Supreme Court has considered several factors in its harmless-error analysis. See *Davis* v. *State*, 207 So. 3d 142, 174–175 (2016) (referring to the unanimity of the jury recommendations of death as well as the "egregious facts" of the case). In practice, however, the Florida Supreme Court's harmless-error approach appears to reflect a myopic focus on one factor: whether the advisory jury's recommendation for death was unanimous. Because the jurors in pre-*Hurst* cases were informed that they should recommend death only if they determined that sufficient aggravating factors existed and outweighed the mitigating factors, the Florida Supreme Court has reasoned that a jury that unanimously recommended death necessarily made the findings that *Hurst* said are constitutionally required. See *Davis*, 207 So. 3d, at 174–175. By concluding that *Hurst* violations are harmless because jury recommendations were unanimous, the Florida Supreme Court "transforms those advisory jury recommendations into binding findings of fact." *Guardado* v. *Jones*, 584 U. S. 922, 925 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

III

A

Because the Florida Supreme Court's harmless-error analysis relies heavily on the fact that a purely advisory jury rendered a unanimous decision, it raises serious questions under this Court's precedents.

In *Caldwell* v. *Mississippi*, 472 U. S. 320 (1985), this Court said it is "constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." *Id.*, at 328–329. *Caldwell* involved misleading comments by a prosecutor who emphasized that the jury's verdict would be subject to appellate review. See *id.*, at 336. This Court concluded that the resulting sentence did not satisfy the minimum standard of reliability required by the Eighth Amendment because the prosecutor's suggestions created "an intolerable danger" that the jury would "minimize the importance of its role." *Id.*, at 333. *Caldwell* explained that this Court has "always premised its capital punishment decisions on the assumption that a capital sentencing jury recognizes the gravity of its task and proceeds with the appropriate awareness of its 'truly awesome responsibility.'" *Id.*, at 341. Where a sentencing jury is encouraged to proceed without that awareness, *Caldwell* suggests that "there are specific reasons to fear substantial unreliability as well as bias in favor of death sentences." *Id.*, at 330.

As noted above, the sentencing scheme in place in Florida when petitioners were sentenced placed the final responsibility with the trial judge. Juries were instructed accordingly. Thus although the jury in this case was instructed that the court would reject a recommendation "only if the facts [we]re so clear and convincing that virtually no reasonable person could differ" and that a "human life [wa]s at stake," the jury also was told that its duty was to "advise the court" and that "the final decision as to what punishment shall be imposed [wa]s the responsibility of the judge." App. D to Pet. for Cert. The jury also heard, repeatedly, that it was to "recommend" an "advisory sentence." *Ibid.* Jury instructions varied across cases. For example, the jurors in petitioner Jesse Guardado's case heard that "human life [wa]s at stake," but not that the court would reject the jury's recommendation only in limited circumstances. App. to Pet. for Cert. in *Guardado* v. *Florida*, O. T. 2018, No. 17–9284, pp. 92a–105a. Like the jurors in this case, the jurors in Guardado's case were instructed that it was their responsibility to "advise the Court" as to the appropriate punishment. *Id.*, at 92a. The court further instructed jurors that the "[f]inal decision as to what punishment shall be imposed rest[ed] solely with the judge of th[e] court."

Ibid. These jurors knew that the final decision as to whether Guardado would live or die did not rest with them. The Court's reasoning in *Caldwell* informs how much weight, if any, to give such a purely advisory recommendation for death.

B

In the case below, the Florida Supreme Court addressed the *Caldwell* issue at length. See 251 So. 3d, at 814–828.[3] Two aspects of the plurality's analysis show the need for further engagement with this issue.

First, the Florida Supreme Court said that its application of the harmless-error rule does not entirely turn on jury unanimity. See *id.*, at 816 ("a unanimous recommendation is not sufficient alone" to find harmlessness). To be sure, in some cases the Florida Supreme Court has mentioned factors other than unanimity to support a finding of harmlessness. See, *e. g.*, *Philmore* v. *State*, 234 So. 3d 567, 568 (2018) (noting that the defendant's confession and the aggravation in the case, as well as the jury's unanimous recommendation, supported a finding of harmlessness), cert. denied, 586 U. S. 1004 (2018). But in many other cases, the court's analysis started and ended with the unanimity of the jury's recommendation. Indeed, on the very day that the Florida Supreme Court decided this case, it treated jury unanimity as dispositive in four other capital cases.[4] In a recent opinion, the Florida Supreme Court again stated that it "has consistently . . . den[ied] *Hurst* relief to defendants who have received a unani-

[3] Of the seven justices of the Florida Supreme Court, only two justices concurred in the court's *per curiam* opinion and one justice concurred specially with an opinion. Of the remaining four justices, two dissented and two concurred only in the result.

[4] See *Tanzi* v. *State*, 251 So. 3d 805, 806 (2018) (citing *Davis* v. *State*, 207 So. 3d 142, 175 (2016), for the proposition that the unanimity of a jury's recommendation for death ensures that jurors have made the necessary findings of fact), cert. denied, 586 U. S. 1004 (2018); *Johnston* v. *State*, 246 So. 3d 266 ("Johnston received a unanimous jury recommendation of death and, therefore, the *Hurst* error in this case is harmless beyond a reasonable doubt"), cert. denied, 586 U. S. 1004 (2018); *Crain* v. *State*, 246 So. 3d 206, 210 (2018) ("[T]his Court can rely on the jury's unanimous recommendation for death to conclude that the *Hurst* error in Crain's case was harmless beyond a reasonable doubt"); *Taylor* v. *State*, 246 So. 3d 204, 206 (2018) ("[T]his Court has consistently relied on *Davis* to deny *Hurst* relief to defendants who have received unanimous jury recommendations of death").

mous jury recommendation of death." *Anderson* v. *State*, 257 So. 3d 355, 356 (2018) (internal quotation marks omitted). To the extent the Florida Supreme Court gives dispositive weight to the fact that an advisory jury offered a unanimous recommendation, that action implicates the Eighth Amendment concerns that *Caldwell* addressed.

Second, the state court dismissed *Caldwell* as inapplicable to cases like petitioners' because the pre-*Hurst* jury instructions accurately described the advisory role assigned to the jury by state law at that time. 251 So. 3d, at 824–825. It is true that *Caldwell*'s holding invalidates only those sentences imposed following comments that "*mislead* the jury as to its role in the sentencing process." *Romano* v. *Oklahoma*, 512 U. S. 1, 9 (1994) (internal quotation marks omitted; emphasis added). But whether or not *Caldwell* itself makes petitioners' sentences unconstitutional, the reasoning in *Caldwell* surely informs the related question whether a purely advisory jury recommendation is sufficiently reliable for a court to treat it as legally dispositive for purposes of harmless-error review. *Caldwell* provides strong reasons to doubt that a jury would have reached the same decision had it been instructed that its role was not advisory. See 251 So. 3d, at 832 (Pariente, J., dissenting) ("[T]he jury [in Reynolds' case] was repeatedly told that its sentencing recommendation between life and death was merely 'advisory.' . . . I would conclude that *Caldwell* further supports the conclusion that the *Hurst* error in Reynolds' case is not harmless beyond a reasonable doubt").

IV

"[T]his Court's Eighth Amendment jurisprudence has taken as a given that capital sentencers would view their task as the serious one of determining whether a specific human being should die at the hands of the State." *Caldwell*, 472 U. S., at 329. The jurors in petitioners' cases were repeatedly instructed that their role was merely advisory, yet the Florida Supreme Court has treated their recommendations as legally binding by way of its harmless-error analysis. This approach raises substantial Eighth Amendment concerns. As I continue to believe that "the stakes in capital cases are too high to ignore such constitutional challenges," *Truehill* v. *Florida*, 583 U. S. 938, 940 (2017) (opinion dissenting from denial of certiorari), I would grant review to decide whether the Florida Supreme Court's harmless-error ap-

proach is valid in light of *Caldwell*. This Court's refusal to address petitioners' challenges signals that it is unwilling to decide this issue. I respectfully dissent from the denial of certiorari, and I will continue to note my dissent in future cases raising the *Caldwell* question.

No. 18–5190. GARCIA-ECHAVERRIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 717 Fed. Appx. 505.

No. 18–6003. KAVANDI *v.* TIME WARNER CABLE, INC., ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 18–6281. CALLINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

No. 18–6333. STAPLES *v.* MAYE, WARDEN. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 711 Fed. Appx. 866.

Rehearing Denied

No. 17–1479. GENTRY *v.* THOMPSON, JUDGE, CIRCUIT COURT OF TENNESSEE, SUMNER COUNTY, 586 U. S. 816;
No. 17–1684. FRANCE *v.* PATRICK, 586 U. S. 824;
No. 17–9333. THYBERG *v.* UNITED STATES, 586 U. S. 854;
No. 17–9398. ROCK *v.* EXECUTIVE OFFICE PARK OF DURHAM ASSN., INC., 586 U. S. 858;
No. 17–9478. FISHER *v.* MISSOURI, 586 U. S. 862;
No. 17–9517. DENOMA *v.* KASICH, GOVERNOR OF OHIO, ET AL., 586 U. S. 864;
No. 18–105. SABENIANO *v.* CITIBANK, N. A., ET AL., 586 U. S. 874;
No. 18–170. GENTRY *v.* TENNESSEE ET AL., 586 U. S. 911; and

No. 18–5812. IN RE DECARO, 586 U. S. 811. Petitions for rehearing denied.

No. 17–9069. DEGRATE *v.* HARRIS, CLERK, SUPREME COURT OF THE UNITED STATES, 586 U. S. 841. Petition for rehearing denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

NOVEMBER 14, 2018

Dismissal Under Rule 46

No. 18–162. BALL ET AL. *v.* LEBLANC, SECRETARY, LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, ET AL. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 881 F. 3d 346.

Certiorari Denied

No. 18–6680 (18A510). MORENO RAMOS *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

No. 18–6682 (18A512). MORENO RAMOS *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

NOVEMBER 16, 2018

Certiorari Granted

No. 18–315. COCHISE CONSULTANCY, INC., ET AL. *v.* UNITED STATES EX REL. HUNT. C. A. 11th Cir. Certiorari granted. Reported below: 887 F. 3d 1081.

No. 18–557. IN RE DEPARTMENT OF COMMERCE ET AL. Petition for writ of mandamus is treated as a petition for writ of certiorari, and certiorari is granted. Petitioners' brief on the merits is to be filed on or before Monday, December 17, 2018. Respondents' brief on the merits is to be filed on or before Thursday, January 17, 2019. Reply brief is to be filed on or before Monday, February 4, 2019. Case is set for oral argument on Tuesday, February 19, 2019.

NOVEMBER 19, 2018

Miscellaneous Orders

No. 18M63. LOFTON *v.* SP PLUS CORP., FKA STANDARD PARKING CORP. ET AL.; and

No. 18M65. CARTER *v.* UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M64. ZUKERMAN *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 18M66. TYSON *v.* TEXAS (two cases). Motion for leave to proceed as a veteran denied.

No. 17–646. GAMBLE *v.* UNITED STATES. C. A. 11th Cir. [Certiorari granted, 585 U. S. 1029.] Motion of Texas et al. for leave to participate in oral argument as *amici curiae* and for enlargement of time for oral argument granted, and the time is allotted as follows: 40 minutes for petitioner, 30 minutes for respondent, and 10 minutes for Texas et al.

No. 17–8151. BUCKLEW *v.* PRECYTHE, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th Cir. [Certiorari granted, 584 U. S. 959.] Motion of petitioner for appointment of counsel granted, and Cheryl A. Pilate, Esq., of Kansas City, Mo., is appointed to serve as counsel for petitioner in this case.

No. 17–9041. CIOTTA *v.* HOLLAND, WARDEN. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 803] denied.

No. 18–5002. GRAY *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 805] denied.

No. 18–5017. SELDEN *v.* KOVACHEVICH, JUDGE, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, ET AL. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 805] denied.

No. 18–5631. JACOB *v.* FRAKES, DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES. C. A. 8th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 807] denied.

No. 18–6071. NAYSHTUT *v.* COMERCIALIZADORA TRAVEL ADVISORY, S. A. DE C. V., ET AL. Ct. App. Cal., 1st App. Dist., Div. 1.; and

No. 18–6384. LANTERI *v.* CONNECTICUT. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 10, 2018, 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.

No. 18–6448. IN RE QUATTROCCHI;

No. 18–6470. IN RE MALONE;

No. 18–6486. IN RE HERNANDEZ; and

No. 18–6514. IN RE BELL. Petitions for writs of habeas corpus denied.

Certiorari Denied

No. 17–8988. BOOK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 696 Fed. Appx. 231.

No. 17–9223. HINTON *v.* WALKER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 691 Fed. Appx. 733.

No. 18–78. RAMIREZ-BARAJAS *v.* WHITAKER, ACTING ATTORNEY GENERAL (Reported below: 877 F. 3d 808); and ONDUSO *v.* WHITAKER, ACTING ATTORNEY GENERAL (877 F. 3d 1073). C. A. 8th Cir. Certiorari denied.

No. 18–150. PLUMMER ET AL. *v.* HOPPER, SPECIAL ADMINISTRATOR OF THE ESTATE OF RICHARDSON. C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 3d 744.

No. 18–204. PORTFOLIO RECOVERY ASSOCIATES, LLC *v.* POUNDS ET AL. C. A. 4th Cir. Certiorari denied.

No. 18–212. BANK OF AMERICA, N. A. *v.* LUSNAK. C. A. 9th Cir. Certiorari denied. Reported below: 883 F. 3d 1185.

No. 18–300. DELANO FARMS CO. ET AL. *v.* CALIFORNIA TABLE GRAPE COMMISSION. Sup. Ct. Cal. Certiorari denied. Reported below: 4 Cal. 5th 1204, 417 P. 3d 699.

No. 18–326. ESTATE OF GOLDBERG BY EXECUTOR GOLDBERG *v.* NIMOITYN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 141.

No. 18–330. GREENE *v.* FROST BROWN TODD, LLC, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–336. JONES ET AL. *v.* MARKIEWICZ-QUALKINBUSH ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 3d 935.

No. 18–338. SOCCOLICH ET UX. *v.* WILMINGTON SAVINGS FUND SOCIETY, FSB, AS TRUSTEE. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 241 So. 3d 119.

No. 18–344. SHAO *v.* MCMANIS FAULKNER, LLP. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–354. WEISS *v.* NEW JERSEY. C. A. 3d Cir. Certiorari denied.

No. 18–358. ROE *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–361. ALLEYNE *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 181 A. 3d 1272.

No. 18–362. BROWN *v.* VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 344.

No. 18–363. URIBE-SANCHEZ *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 363.

No. 18–367. JACOBI *v.* NEW YORK TAX APPEALS TRIBUNAL ET AL. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 156 App. Div. 3d 1154, 68 N. Y. S. 3d 184.

No. 18–382. RAB *v.* SUPERIOR COURT OF CALIFORNIA, SACRAMENTO COUNTY, ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 18–401. HOBSON *v.* MATTIS, SECRETARY OF DEFENSE. C. A. 6th Cir. Certiorari denied.

No. 18–405. DASTMALCHIAN *v.* DEPARTMENT OF JUSTICE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 603.

No. 18–413. Bosch *v.* Arizona Department of Revenue. Ct. App. Ariz. Certiorari denied.

No. 18–441. Accord Healthcare, Inc., et al. *v.* UCB, Inc., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 890 F. 3d 1313.

No. 18–463. Morello *v.* Texas. Sup. Ct. Tex. Certiorari denied. Reported below: 547 S. W. 3d 881.

No. 18–468. SSL Services, LLC *v.* Cisco Systems, Inc. C. A. Fed. Cir. Certiorari denied. Reported below: 721 Fed. Appx. 987.

No. 18–492. Souza *v.* California. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 18–522. Ishee *v.* Mississippi. Ct. App. Miss. Certiorari denied. Reported below: 248 So. 3d 841.

No. 18–524. Gathings *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 18–532. Sixty-01 Association of Apartment Owners *v.* Goudelock. C. A. 9th Cir. Certiorari denied. Reported below: 895 F. 3d 633.

No. 18–5252. Earp *v.* Davis, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 881 F. 3d 1135.

No. 18–5289. Barbee *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 259.

No. 18–5321. Ortiz-Uresti *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 721 Fed. Appx. 145.

No. 18–5401. Poirier *v.* Massachusetts Department of Correction. C. A. 1st Cir. Certiorari denied.

No. 18–5597. Miller *v.* Mays, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 879 F. 3d 691.

No. 18–5948. Murphy *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 693.

No. 18–5985. SPARKS *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. Ct. App. Ore. Certiorari denied. Reported below: 289 Ore. App. 159, 408 P. 3d 276.

No. 18–5988. ALLAH *v.* WILSON ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–6002. LIBRACE *v.* WRIGHT ET AL. C. A. 8th Cir. Certiorari denied.

No. 18–6004. JONES *v.* SUPERIOR COURT OF CONNECTICUT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 109.

No. 18–6019. QUINTERO *v.* NEVADA. Ct. App. Nev. Certiorari denied. Reported below: 134 Nev. 998.

No. 18–6021. BURNEY *v.* ALDRIDGE, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 856.

No. 18–6022. UDEIGWE *v.* TEXAS TECH UNIVERSITY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 788.

No. 18–6026. BOOTH *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 861.

No. 18–6027. BEAULIEU *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied.

No. 18–6029. AQUILINA *v.* DAVIS, ADMINISTRATOR, EDNA MAHAN CORRECTIONAL FACILITY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–6032. D. L. *v.* WISCONSIN. Ct. App. Wis. Certiorari denied.

No. 18–6038. VILLAVICENCIO *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–6043. MANNING *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–6045. BECKHAM *v.* MILLER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 169.

No. 18–6047. SEED *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–6052. KHOSHMOOD *v.* CATHOLIC CHARITY ET AL. C. A. D. C. Cir. Certiorari denied.

No. 18–6053. KISSNER *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–6055. TRIPLETT *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 396.

No. 18–6059. CARTER *v.* OHIO. Ct. App. Ohio, 1st App. Dist., Hamilton County. Certiorari denied. Reported below: 2018-Ohio-645, 95 N. E. 3d 443.

No. 18–6082. LEE *v.* CHEATHAM, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 984.

No. 18–6154. EASLEY *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 290 Ore. App. 506, 415 P. 3d 1099.

No. 18–6200. UZOECHI *v.* WILSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 65.

No. 18–6253. WESLING *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 169 A. 3d 1219.

No. 18–6254. TYLER *v.* OCWEN LOAN SERVICING, LLC, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 221.

No. 18–6259. TYLER *v.* OCWEN LOAN SERVICING, LLC, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 424.

No. 18–6275. LUPIAN-BARAJAS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6291. COOK *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6327. HUMPHREY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 265.

No. 18–6335. JENKINS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 730.

No. 18–6339. WILLAN *v.* PETITIONER. Ct. App. Wis. Certiorari denied. Reported below: 2018 WI App 21, 380 Wis. 2d 510, 913 N. W. 2d 515.

No. 18–6341. LIEBA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 480.

No. 18–6342. LOPEZ-VAAL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 193.

No. 18–6343. LLERENAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 86.

No. 18–6346. DUBARRY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 568.

No. 18–6347. BRAKE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 904 F. 3d 97.

No. 18–6349. PALOMINO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 485.

No. 18–6350. BRAND *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6351. BAKER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 899 F. 3d 123.

No. 18–6352. ABERANT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 905.

No. 18–6355. SCOTT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 348.

No. 18–6358. HILTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 948.

No. 18–6359. GOMEZ-SAAVEDRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 483.

No. 18–6360. FAURISMA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 716 Fed. Appx. 932.

No. 18–6361. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 710.

No. 18–6363. BERNHARDT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 903 F. 3d 818.

No. 18–6366. BARBOSA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 896 F. 3d 60.

No. 18–6370. HARPER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 445.

No. 18–6371. HENDERSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 565.

No. 18–6372. SMALL *v.* LINDAMOOD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6373. SEMIEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 746 Fed. Appx. 303.

No. 18–6379. NAKHLEH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 3d 838.

No. 18–6389. LOMAX *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 678.

No. 18–6391. HAWKS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 868.

No. 18–6436. CINTRON *v.* FERGUSON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT PHOENIX, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–6444. WHITNEY *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Certiorari denied.

No. 17–1676. STUART *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 268 So. 3d 607.

JUSTICE GORSUCH, with whom JUSTICE SOTOMAYOR joins, dissenting.

More and more, forensic evidence plays a decisive role in criminal trials today. But it is hardly "immune from the risk of manipulation." *Melendez-Diaz* v. *Massachusetts*, 557 U. S. 305, 318 (2009). A forensic analyst "may feel pressure—or have an incentive—to alter the evidence in a manner favorable to the prosecution." *Ibid.* Even the most well-meaning analyst may lack essential training, contaminate a sample, or err during the testing process. See *ibid.*; see also *Bullcoming* v. *New Mexico*, 564 U. S. 647, 654, n. 1 (2011) (documenting laboratory prob-

lems). To guard against such mischief and mistake and the risk of false convictions they invite, our criminal justice system depends on adversarial testing and cross-examination. Because cross-examination may be "the greatest legal engine ever invented for the discovery of truth," *California* v. *Green*, 399 U. S. 149, 158 (1970) (internal quotation marks omitted), the Constitution promises every person accused of a crime the right to confront his accusers. Amdt. 6.

That promise was broken here. To prove Vanessa Stuart was driving under the influence, the State of Alabama introduced in evidence the results of a blood-alcohol test conducted hours after her arrest. But the State refused to bring to the stand the analyst who performed the test. Instead, the State called a *different* analyst. Using the results of the test after her arrest and the rate at which alcohol is metabolized, this analyst sought to estimate for the jury Ms. Stuart's blood-alcohol level hours earlier when she was driving. Through these steps, the State effectively denied Ms. Stuart the chance to confront the witness who supplied a foundational piece of evidence in her conviction. The engine of cross-examination was left unengaged, and the Sixth Amendment was violated.

To be fair, the problem appears to be largely of our creation. This Court's most recent foray in this field, *Williams* v. *Illinois*, 567 U. S. 50 (2012), yielded no majority and its various opinions have sown confusion in courts across the country. See, *e. g.*, *State* v. *Dotson*, 450 S. W. 3d 1, 68 (Tenn. 2014) ("The Supreme Court's fractured decision in *Williams* provides little guidance and is of uncertain precedential value"); *State* v. *Michaels*, 219 N. J. 1, 31, 95 A. 3d 648, 666 (2014) ("We find *Williams*'s force, as precedent, at best unclear"); *United States* v. *Turner*, 709 F. 3d 1187, 1189 (CA7 2013); *United States* v. *James*, 712 F. 3d 79, 95 (CA2 2013).

This case supplies another example of that confusion. Though the opinion of the Alabama court is terse, the State defends it by arguing that, "[u]nder the rule of the *Williams* plurality," the prosecution was free to introduce the forensic report in this case without calling the analyst who prepared it. Brief in Opposition 6. This is so, the State says, because it didn't offer the report for the truth of what it said about Ms. Stuart's blood-alcohol level at the time of the test, only to provide the State's testifying expert a basis for estimating Ms. Stuart's blood-alcohol level when she was driving.

But while *Williams* yielded no majority opinion, at least five Justices rejected this logic—and for good reason. After all, why would any prosecutor bother to offer in evidence the nontestifying analyst's report in this case except to prove the truth of its assertions about the level of alcohol in Ms. Stuart's blood at the time of the test? The whole point of the exercise was to establish—*because of the report's truth*—a basis for the jury to credit the testifying expert's estimation of Ms. Stuart's blood-alcohol level hours earlier. As the four dissenting Justices in *Williams* explained, "when a witness . . . repeats an out-of-court statement as the basis for a conclusion, . . . the statement's utility is then dependent on its truth." 567 U. S., at 126 (opinion of KAGAN, J.). With this JUSTICE THOMAS fully agreed, observing that "[t]here is no meaningful distinction between disclosing an out-of-court statement so that the factfinder may evaluate the [testifying] expert's opinion and disclosing that statement for its truth." *Id.*, at 106 (opinion concurring in judgment).

Faced with this difficulty, the State offers an alternative defense of its judgment in this case. Even if it did offer the forensic report for the truth of its assertion about Ms. Stuart's blood-alcohol level at the time of her arrest, the State contends that the Sixth Amendment right to confrontation failed to attach because the report wasn't "'testimonial.'" Brief in Opposition 9.

But piecing together the fractured decision in *Williams* reveals this argument to be mistaken too—and this time in the view of *eight* Justices. The four-Justice *Williams* plurality took the view that a forensic report qualifies as testimonial only when it is "prepared for the primary purpose of accusing a targeted individual" who is "in custody [or] under suspicion." 567 U. S., at 84. Meanwhile, four dissenting Justices took the broader view that even a report devised purely for investigatory purposes without a target in mind can qualify as testimonial when it is "made under circumstances which would lead an objective witness reasonably to believe that [it] would be available for use at a later trial." *Id.*, at 121 (opinion of KAGAN, J.) (internal quotation marks omitted). But however you slice it, a routine postarrest forensic report like the one here must qualify as testimonial. For even under the plurality's more demanding test, there's no question that Ms. Stuart *was* in custody when the government conducted its forensic test or that the report *was* prepared for the primary purpose of securing her conviction.

Respectfully, I believe we owe lower courts struggling to abide our holdings more clarity than we have afforded them in this area. *Williams* imposes on courts with crowded dockets the job of trying to distill holdings on two separate and important issues from four competing opinions. The errors here may be manifest, but they are understandable and they affect courts across the country in cases that regularly recur. I would grant review.

No. 18–380. VANNOY, WARDEN *v.* FLOYD. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 894 F. 3d 143.

No. 18–5925. LOREN *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 18–6387. BOWENS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 322.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

Rehearing Denied

No. 17–1537. MORRISON *v.* QUEST DIAGNOSTICS INC. ET AL., 586 U. S. 818;

No. 17–1571. MARRANCA *v.* LOYTSKER, 586 U. S. 819;

No. 17–1601. BARONE *v.* WELLS FARGO BANK, N. A., 586 U. S. 820;

No. 17–1608. HOLKESVIG *v.* NORTH DAKOTA, 586 U. S. 820;

No. 17–1612. HINDS *v.* UNITED STATES, 586 U. S. 821;

No. 17–1621. ANDERSON *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 586 U. S. 821;

No. 17–1626. ASSADIAN *v.* PARSI ET AL., 586 U. S. 821;

No. 17–1647. IN RE HENDERSON ET AL., 586 U. S. 811;

No. 17–1651. BATES ET UX. *v.* VILLAGE OF PENTWATER, MICHIGAN, 586 U. S. 823;

No. 17–1690. COONEY *v.* BARRY SCHOOL OF LAW, AKA DWAYNE O. ANDREAS SCHOOL OF LAW, 586 U. S. 825;

No. 17–7988. MATHURIN *v.* UNITED STATES, 586 U. S. 827;

No. 17–8846. Ramey *v.* United States, 586 U. S. 834;

No. 17–8937. Ferguson-Cassidy *v.* City of Los Angeles, California, et al., 586 U. S. 837;

No. 17–9078. Arlotta *v.* Bank of America, N. A., et al.; and Arlotta *v.* Diocese of Buffalo et al., 586 U. S. 841;

No. 17–9210. Buttercase *v.* Nebraska, 586 U. S. 848;

No. 17–9311. Johnson *v.* United States, 586 U. S. 853;

No. 17–9331. Chasson, aka Alias, aka Hason *v.* Sessions, Attorney General, 586 U. S. 854;

No. 17–9352. Viola *v.* Bennett, 586 U. S. 855;

No. 17–9423. Woods *v.* Arizona, 586 U. S. 859;

No. 17–9428. Johnson *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 586 U. S. 860;

No. 17–9444. Stephens et al. *v.* City of Englewood, New Jersey, et al., 586 U. S. 860;

No. 17–9476. Elghannam *v.* Educational Testing Service, 586 U. S. 862;

No. 17–9504. Ray *v.* McCollum, Warden, 586 U. S. 864;

No. 17–9567. Brown *v.* Del Norte County, California, et al., 586 U. S. 867;

No. 18–9. Washington *v.* Azar, Secretary of Health and Human Services, 586 U. S. 869;

No. 18–49. Plumb et al. *v.* U. S. Bank N. A. et al., 586 U. S. 871;

No. 18–92. Perry *v.* Kriegman, 586 U. S. 873;

No. 18–95. Wentzell et al. *v.* BP America, Inc., et al., 586 U. S. 874;

No. 18–104. Tuerk *v.* Disciplinary Board of the Supreme Court of Pennsylvania, 586 U. S. 874;

No. 18–139. Freeman *v.* North Carolina Department of Health and Human Services, 586 U. S. 875;

No. 18–143. Bart *v.* United States, 586 U. S. 875;

No. 18–186. Silva-Ramirez *v.* Hospital Espanol Auxilio Mutuo de Puerto Rico, Inc., et al., 586 U. S. 876;

No. 18–5009. Drummond *v.* Sessions, Attorney General, 586 U. S. 877;

No. 18–5094. Sherry *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 586 U. S. 882;

No. 18–5099. WILLIAMS *v.* LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES ET AL., 586 U. S. 882;
No. 18–5178. BALTIMORE *v.* BUCK, 586 U. S. 887;
No. 18–5197. DIXIT *v.* DIXIT, 586 U. S. 888;
No. 18–5235. THOMAS *v.* CHANDRAN, 586 U. S. 889;
No. 18–5309. MCLAIN *v.* UNITED STATES, 586 U. S. 893;
No. 18–5316. VAUGHAN *v.* VAUGHAN ET AL., 586 U. S. 893;
No. 18–5327. MAKDESSI *v.* FIELDS ET AL., 586 U. S. 894;
No. 18–5665. CABRERA *v.* UNITED STATES, 586 U. S. 905; and
No. 18–5799. IN RE SMITHBACK, 586 U. S. 811. Petitions for rehearing denied.

NOVEMBER 27, 2018

Dismissal Under Rule 46

No. 17–1056. QUALITY SYSTEMS, INC., ET AL. *v.* CITY OF MIAMI FIRE FIGHTERS' AND POLICE OFFICERS' RETIREMENT TRUST ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 865 F. 3d 1130.

DECEMBER 3, 2018

Certiorari Granted—Vacated and Remanded

No. 17–74. MARKLE INTERESTS, L. L. C., ET AL. *v.* UNITED STATES FISH AND WILDLIFE SERVICE ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Weyerhaeuser Co.* v. *United States Fish and Wildlife Serv.*, 586 U. S. 9 (2018). Reported below: 827 F. 3d 452.

No. 17–886. FLECK *v.* WETCH ET AL. C. A. 8th Cir. Motions of Pacific Legal Foundation and Kourosh Kenneth Hamidi et al. for leave to file briefs as *amici curiae* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Janus* v. *State, County, and Municipal Employees*, 585 U. S. 878 (2018). Reported below: 868 F. 3d 652.

Certiorari Dismissed

No. 18–5813. KILPATRICK *v.* HENKIN. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6129. MATELYAN *v.* CD BABY DISTRIBUTION CO. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma*

pauperis denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6130. KILPATRICK *v.* CUOMO, GOVERNOR OF NEW YORK. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6131. KILPATRICK *v.* ARP; and KILPATRICK *v.* SCOTT. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6191. SANDERS *v.* ESQUEDA, DANE COUNTY CLERK OF COURT. Ct. App. Wis. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6195. WATFORD *v.* DOE ET AL. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6223. JONASSEN *v.* UNITED STATES ET AL. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*).

Miscellaneous Orders

No. 18M67. DENG *v.* UNITED STATES;

No. 18M68. MCGUIRK *v.* AIRBNB, INC., ET AL.; and

No. 18M69. TREASE *v.* FLORIDA. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 17–290. MERCK SHARP & DOHME CORP. *v.* ALBRECHT ET AL. C. A. 3d Cir. [Certiorari granted, 585 U. S. 1029.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–532. HERRERA *v.* WYOMING. Dist. Ct. Wyo., Sheridan County. [Certiorari granted, 585 U. S. 1029.] Motion of the So-

licitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1307. OBDUSKEY *v.* MCCARTHY & HOLTHUS LLP. C. A. 10th Cir. [Certiorari granted, 585 U. S. 1029.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1335. CONSOLIDATION COAL CO. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL., 586 U. S. 814. Motion of respondent Robert Thompson for attorney's fees and expenses granted. The Court approves the parties' agreed upon attorney's fees of $14,732.50, and expenses of $1,152.63, to be paid by Consolidation Coal Co.

No. 17–9480. IN RE WOODS. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 812] denied.

No. 18–260. COUNTY OF MAUI, HAWAII *v.* HAWAII WILDLIFE FUND ET AL. C. A. 9th Cir.; and

No. 18–268. KINDER MORGAN ENERGY PARTNERS, L. P., ET AL. *v.* UPSTATE FOREVER ET AL. C. A. 4th Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States on or before 4 p.m., Friday, January 4, 2019.

No. 18–5020. IN RE BROWN. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 813] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 18–5400. IN RE PENNINGTON-THURMAN. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 812] denied.

No. 18–5567. CURRY *v.* CITY OF MANSFIELD, OHIO, ET AL. Ct. App. Ohio, 5th App. Dist., Richland County. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 916] denied.

No. 18–5568. Curry *v.* CITY OF MANSFIELD, OHIO, ET AL. Ct. App. Ohio, 5th App. Dist., Richland County. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 916] denied.

No. 18–5786. THOMAS *v.* UNITED STATES. C. A. 7th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 811] denied.

No. 18–6321. NGUYEN *v.* NIELSEN, SECRETARY OF HOMELAND SECURITY. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 26, 2018, 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.

No. 18–614. IN RE HOUSTON;
No. 18–5683. IN RE BRITTON-HARR;
No. 18–6654. IN RE DEBOLT; and
No. 18–6675. IN RE ZATER. Petitions for writs of habeas corpus denied.

No. 18–6632. IN RE HOWELL. Motion of petitioner for leave to proceed *in forma pauperis* denied, and petition for writ of habeas corpus dismissed. See this Court's Rule 39.8.

No. 18–6091. IN RE WALCOTT. Petition for writ of mandamus denied.

No. 18–223. IN RE DAWSON. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 17–9134. YOUNG, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF GREEN, DECEASED *v.* CITY OF TAMPA, FLORIDA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 986.

No. 17–9332. VINSON *v.* JACKSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 711 Fed. Appx. 329.

No. 18–81. TAYLOR *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: 86 N. E. 3d 157.

No. 18–89. AMERICULTURE, INC., ET AL. *v.* LOS LOBOS RENEWABLE POWER, LLC, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 885 F. 3d 659.

No. 18–113. RODGERS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 242 So. 3d 276.

No. 18–165. DHL Supply Chain *v.* DEX Systems, Inc. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 276.

No. 18–188. Tucker *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 889 F. 3d 881.

No. 18–246. Doherty et al. *v.* Allstate Indemnity Co. C. A. 3d Cir. Certiorari denied. Reported below: 734 F. 3d 817.

No. 18–247. Animal Legal Defense Fund et al. *v.* Department of Homeland Security et al. D. C. S. D. Cal. Certiorari denied. Reported below: 284 F. Supp. 3d 1092.

No. 18–257. Bauch, Individually and as Father and Next Friend of O. B., a Minor, et al. *v.* Richland County Children Services et al. C. A. 6th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 292.

No. 18–321. TVEyes, Inc. *v.* Fox News Network, LLC. C. A. 2d Cir. Certiorari denied. Reported below: 883 F. 3d 169.

No. 18–329. Rountree *v.* Dyson et al. C. A. 5th Cir. Certiorari denied. Reported below: 892 F. 3d 681.

No. 18–366. Golden et vir *v.* Peterson. App. Ct. Mass. Certiorari denied. Reported below: 92 Mass. App. 1131, 103 N. E. 3d 766.

No. 18–369. Valdez *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 18–376. Partin et vir *v.* Michigan Children's Institute. Sup. Ct. Mich. Certiorari denied. Reported below: 501 Mich. 865, 901 N. W. 2d 382.

No. 18–379. Keyes *v.* Banks. Ct. App. Ky. Certiorari denied.

No. 18–383. Davis et al. *v.* JPMorgan Chase Bank N. A. Sup. Ct. Conn. Certiorari denied. Reported below: 328 Conn. 921, 180 A. 3d 963.

No. 18–390. Pletos et al. *v.* Makower Abatte Guerra Wegner Vollmer, PLLC, et al. C. A. 6th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 431.

No. 18–393. Moody *v.* National Football League. C. A. 2d Cir. Certiorari denied. Reported below: 711 Fed. Appx. 65.

No. 18–399. Fink *v.* Kirchner et al. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 157.

No. 18–409. Liu *v.* Ryan et al. C. A. 2d Cir. Certiorari denied. Reported below: 724 Fed. Appx. 92.

No. 18–414. Burnett *v.* Panasonic Corp. et al. C. A. Fed. Cir. Certiorari denied. Reported below: 741 Fed. Appx. 777.

No. 18–416. Hatch *v.* Brennan, Postmaster General, et al. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 868.

No. 18–419. Boogaard et al., as Personal Representatives of the Estate of Boogaard, Deceased *v.* National Hockey League et al. C. A. 7th Cir. Certiorari denied. Reported below: 891 F. 3d 289.

No. 18–424. Brown-Williams et al. *v.* Superior Court of California, Los Angeles County, et al. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 18–425. Williams et al. *v.* Superior Court of California, Los Angeles County, et al. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 18–434. Mosby *v.* Parilla. Ct. App. N. Y. Certiorari denied. Reported below: 30 N. Y. 3d 1083, 92 N. E. 3d 1240.

No. 18–452. Wesley *v.* Town Square Media West Central Radio Broadcasting et al. C. A. 9th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 595.

No. 18–464. Hatfield Enterprizes, Inc., et al. *v.* Washington State Employment Security Department. Ct. App. Wash. Certiorari denied. Reported below: 1 Wash. App. 2d 174, 404 P. 3d 517.

No. 18–465. Garnett *v.* Remedi Seniorcare of Virginia, LLC. C. A. 4th Cir. Certiorari denied. Reported below: 892 F. 3d 140.

No. 18–466. Gulick Trucking, Inc. *v.* Washington State Employment Security Department. Ct. App. Wash. Certiorari denied. Reported below: 2 Wash. App. 2d 1016.

No. 18–469. MacMillan-Piper, Inc. *v.* Washington State Employment Security Department. Ct. App. Wash. Certiorari denied. Reported below: 1 Wash. App. 2d 1055.

No. 18–484. Pettigrew *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 18–494. Ross *v.* Apple Inc. C. A. 11th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 733.

No. 18–497. Coulter *v.* Bissoon, Judge, United States District Court for the Western District of Pennsylvania, et al. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 83.

No. 18–501. Adburahman et al. *v.* Hyundai Motor America, Inc., et al. C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 3d 278.

No. 18–531. Coffman *v.* Iowa. Sup. Ct. Iowa. Certiorari denied. Reported below: 914 N. W. 2d 240.

No. 18–535. Residents Against Flooding et al. *v.* Reinvestment Zone Number Seventeen, City of Houston, Texas, et al. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 916.

No. 18–538. Nora *v.* Wisconsin Office of Lawyer Regulation. Sup. Ct. Wis. Certiorari denied. Reported below: 2018 WI 23, 380 Wis. 2d 311, 909 N. W. 2d 155.

No. 18–541. Deol *v.* Depreta et al. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 232.

No. 18–542. Hamilton *v.* Clarke, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 217.

No. 18–563. Commander *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 824.

No. 18–568. Rippl *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 18–5052. Cureton *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 887 F. 3d 318.

No. 18–5071. CARLOS VAZQUEZ *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 18–5121. MUSGROVE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 155.

No. 18–5296. RASBERRY *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 882 F. 3d 241.

No. 18–5322. RODRIGUEZ-APARICIO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 888 F. 3d 189.

No. 18–5468. VILLARREAL ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 515.

No. 18–5475. GEORGE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–5621. TORKORNOO *v.* HELWIG ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 198.

No. 18–5674. SWAIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5692. JORDAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5702. ANGEL MEJIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 731.

No. 18–5791. WHARTON *v.* VAUGHN. C. A. 3d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 268.

No. 18–5796. CROMARTIE *v.* SELLERS, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–5982. BRITTON-HARR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6064. ROSE *v.* KIRKEGARD, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 406.

No. 18–6077. QAZI *v.* NEVADA ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6085. DANIELS *v.* DOWLING, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 756.

No. 18–6089. Assa'ad-Faltas *v.* City of Columbia, South Carolina. Sup. Ct. S. C. Certiorari denied.

No. 18–6101. Pierre *v.* FJC Security Services, Inc. C. A. 2d Cir. Certiorari denied. Reported below: 723 Fed. Appx. 70.

No. 18–6105. Wallace *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 18–6106. Miller *v.* Kashani et al. C. A. 9th Cir. Certiorari denied.

No. 18–6110. Mahdi *v.* South Carolina. Sup. Ct. S. C. Certiorari denied.

No. 18–6114. Linh Thi Minh Tran *v.* Pham. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 385, 406 P. 3d 247.

No. 18–6115. Antonio Jimenez *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 247 So. 3d 395.

No. 18–6124. Washington *v.* Palmer, Warden. C. A. 6th Cir. Certiorari denied.

No. 18–6125. Wright *v.* Carter et al. C. A. 2d Cir. Certiorari denied. Reported below: 712 Fed. Appx. 80.

No. 18–6134. Peters *v.* Baldwin et al. C. A. 7th Cir. Certiorari denied.

No. 18–6136. Lara-Aguilar *v.* Whitaker, Acting Attorney General. C. A. 4th Cir. Certiorari denied. Reported below: 889 F. 3d 134.

No. 18–6140. Hardaway *v.* Cross State Moving et al. C. A. D. C. Cir. Certiorari denied. Reported below: 729 Fed. Appx. 8.

No. 18–6142. Dingler *v.* Georgia et al. C. A. 11th Cir. Certiorari denied. Reported below: 725 Fed. Appx. 923.

No. 18–6144. Padilla *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 18–6152. M. E. D. *v.* New Jersey. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–6153. Raisbeck *v.* Stewart, Warden. C. A. 6th Cir. Certiorari denied.

No. 18–6158. Terry *v.* Abraham, Chief, Dillon County Detention Center. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 242.

No. 18–6164. Laschkewitsch *v.* ReliaStar Life Insurance Co. C. A. 4th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 155.

No. 18–6166. Rafi *v.* Brigham and Women's Hospital et al. C. A. 1st Cir. Certiorari denied.

No. 18–6167. Clark *v.* Florida. Sup. Ct. Fla. Certiorari denied.

No. 18–6168. Soon Young Kim *v.* California. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 18–6170. Henderson *v.* VIP Taxi LLC et al. C. A. 9th Cir. Certiorari denied.

No. 18–6176. Lucero *v.* California. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 18–6179. Emanuel *v.* Territory of the Virgin Islands. Sup. Ct. V. I. Certiorari denied. Reported below: 68 V. I. 666.

No. 18–6182. Moore *v.* Nevada et al. Sup. Ct. Nev. Certiorari denied. Reported below: 134 Nev. 262, 417 P. 3d 356.

No. 18–6189. Salgado *v.* California. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 18–6194. Vandivere *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 265.

No. 18–6199. Torres *v.* Perrone, Judge, Judicial Circuit Court of Florida, Hillsborough County. Sup. Ct. Fla. Certiorari denied.

No. 18–6202. Dinsio *v.* Appellate Division, Supreme Court of New York, Third Judicial Department. C. A. 2d Cir. Certiorari denied.

No. 18–6203. HAYES *v.* PLUMLEY, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 772.

No. 18–6217. MARQUIS *v.* DEUTSCHE BANK NATIONAL TRUST CO. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 437.

No. 18–6219. MAY *v.* CONTINENTAL TOWERS CONDOMINIUMS ASSN. ET AL. Ct. App. Ky. Certiorari denied.

No. 18–6228. LASCHKEWITSCH *v.* AMERICAN NATIONAL LIFE INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 283.

No. 18–6305. POLSHYN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 411.

No. 18–6329. SANDOVAL DOMINGUEZ *v.* SPEARMAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6337. WILLIAMS *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 548 S. W. 3d 275.

No. 18–6338. WILLIAMS *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 18–6364. BUTH *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 480 Mass. 113, 101 N. E. 3d 925.

No. 18–6393. QAZI *v.* KILLIAN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6395. RAMOS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–6396. SOLORIO *v.* MUNIZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 896 F. 3d 914.

No. 18–6397. ROSARIO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–6398. PITTMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 551.

No. 18–6399. PEREZ-TREVINO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 891 F. 3d 359.

No. 18–6401. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 606.

No. 18–6404. RAMIREZ-CRUZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 345.

No. 18–6405. THIESZEN *v.* NEBRASKA. Sup. Ct. Neb. Certiorari denied. Reported below: 300 Neb. 112, 912 N. W. 2d 696.

No. 18–6408. PRINCE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 749 Fed. Appx. 396.

No. 18–6415. CHERNIAVSKY, AKA YEGIYAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 601.

No. 18–6417. WILSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 577.

No. 18–6421. NEGRON-CRUZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–6422. NORTON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 893 F. 3d 464.

No. 18–6425. BEATTIE *v.* ROMERO ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 385.

No. 18–6429. WHITE *v.* ECTOR COUNTY APPRAISAL DISTRICT. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 18–6430. THOMAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6431. JENKINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 636.

No. 18–6432. KILLEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 703.

No. 18–6434. SHULTS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 421.

No. 18–6445. VICK *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6447. GOODWIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6451. SPAIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 180.

No. 18–6456. O'BRIEN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 738 Fed. Appx. 38.

No. 18–6457. PUENTE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6459. BALMES-CRUZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 515.

No. 18–6461. LOVE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 194.

No. 18–6462. CARLOS MENDEZ *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–6463. PORTILLO *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 185 A. 3d 722.

No. 18–6468. LUGO-SANTIAGO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–6472. GIBSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6473. HARRISON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 383.

No. 18–6474. HART *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 919.

No. 18–6475. WRIGHT *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 181 A. 3d 1236.

No. 18–6483. CHAVEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 195.

No. 18–6484. DAVIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 714.

No. 18–6494. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6495. TRENT *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 884 F. 3d 985.

No. 18–6496. THOMAS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 3d 807.

No. 18–6497. WATSON *v.* BYRD, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6504. RUSSIAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 360.

No. 18–6505. POWELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 925 F. 3d 1.

No. 18–6512. JONES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6515. VANOVER ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 746 Fed. Appx. 162.

No. 18–6518. CRUM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 261.

No. 18–6519. ALVAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6524. THOMAS, AKA O'BRIAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 262.

No. 18–6531. EPPES *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 77 M. J. 339.

No. 18–6534. TYLER *v.* WILSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 119.

No. 18–6546. CASTELLANO-BENITEZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 715.

No. 18–6548. LEONE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6549. BRANCH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 254.

No. 18–14. DONJUAN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 720 Fed. Appx. 486.

No. 18–287. NEAL, SUPERINTENDENT, INDIANA STATE PRISON *v.* BAER. C. A. 7th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 879 F. 3d 769.

No. 18–385. JAKKS PACIFIC, INC. *v.* ACCASVEK LLC. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 727 Fed. Appx. 704.

No. 18–426. ASHBOURNE *v.* HANSBERRY ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 703 Fed. Appx. 3.

No. 18–554. WEISS *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

No. 18–562. COOMES *v.* MARYLAND INSURANCE ADMINISTRATION. Ct. App. Md. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 457 Md. 659, 181 A. 3d 204.

No. 18–5422. GARRETT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

No. 18–6394. STEELE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 18–6498. MAJALCA-AGUILAR *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition.

Rehearing Denied

No. 17–1591. HOSKINS *v.* UNITED STATES ET AL., 586 U. S. 820;
No. 17–8008. LEON *v.* UNITED STATES, 586 U. S. 827;
No. 17–8043. MORGAN *v.* KANSAS ET AL., 584 U. S. 953;

No. 17–8352. MARTIN *v.* LIVING ESSENTIALS, LLC, 586 U. S. 828;

No. 17–8516. O'NEAL *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, 585 U. S. 1007;

No. 17–8710. IN RE ARMSTRONG, 586 U. S. 812;

No. 17–8824. CONNER *v.* METROPOLITAN LIFE INSURANCE CO. ET AL.; and CONNER *v.* UNITED STATES POSTAL SERVICE ET AL., 586 U. S. 833;

No. 17–8867. CLOPTON *v.* MURPHY, JUDGE, DISTRICT COURT OF GRAYSON COUNTY, TEXAS, 586 U. S. 834;

No. 17–8935. CAMPBELL *v.* NEW YORK CITY TRANSIT AUTHORITY, ADJUDICATION BUREAU, 586 U. S. 837;

No. 17–9031. MARTIN *v.* WENDY'S INTERNATIONAL, INC., ET AL., 586 U. S. 839;

No. 17–9071. BAILEY *v.* WHITE, WARDEN, 586 U. S. 841;

No. 17–9145. MALOY *v.* NEW YORK, 586 U. S. 844;

No. 17–9345. LASCHKEWITSCH *v.* TRANSAMERICA LIFE INSURANCE CO., 586 U. S. 855;

No. 17–9346. WOODWARD *v.* KANSAS, 586 U. S. 855;

No. 17–9569. BRADFIELD *v.* UNITED STATES, 586 U. S. 867;

No. 18–5011. CARDONA *v.* UNITED STATES, 586 U. S. 877;

No. 18–5058. DRAKE *v.* UNITED STATES, 586 U. S. 880;

No. 18–5067. STUHR *v.* WHITE, SUPERINTENDENT, WASHINGTON CORRECTIONS CENTER, 586 U. S. 880;

No. 18–5119. KING *v.* KING, 586 U. S. 883;

No. 18–5158. BROWN *v.* UNITED STATES, 586 U. S. 886;

No. 18–5163. THIER *v.* FLORIDA, 586 U. S. 886;

No. 18–5224. COSTELON *v.* NEW MEXICO, 586 U. S. 889;

No. 18–5280. LANIER *v.* UNITED STATES, 586 U. S. 892;

No. 18–5424. SAKUMA *v.* ASSOCIATION OF APARTMENT OWNERS OF THE TROPICS OF WAIKELE ET AL., 586 U. S. 922;

No. 18–5442. WALL *v.* FLORIDA, 586 U. S. 923;

No. 18–5450. RIVAS-RIVERA *v.* PENNSYLVANIA, 586 U. S. 923;

No. 18–5666. DENNISON *v.* HOOKS, WARDEN, 586 U. S. 926; and

No. 18–5788. DUTSCHKE *v.* UNITED STATES, 586 U. S. 907. Petitions for rehearing denied.

DECEMBER 4, 2018

Miscellaneous Orders

No. 17–1107. CARPENTER, INTERIM WARDEN *v.* MURPHY. C. A. 10th Cir. [Certiorari granted *sub nom. Royal* v. *Murphy*,

584 U. S. 992.] The parties, the Solicitor General, and the Muscogee (Creek) Nation are directed to file supplemental briefs addressing the following two questions: "(1) Whether any statute grants the State of Oklahoma jurisdiction over the prosecution of crimes committed by Indians in the area within the 1866 territorial boundaries of the Creek Nation, irrespective of the area's reservation status. (2) Whether there are circumstances in which land qualifies as an Indian reservation but nonetheless does not meet the definition of Indian country as set forth in 18 U. S. C. § 1151(a)." Briefs, not to exceed 6,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, December 28, 2018. Reply briefs, not to exceed 3,000 words, are to be filed simultaneously with the Clerk and served upon opposing counsel on or before 2 p.m., Friday, January 11, 2019.

No. 18–6890 (18A570). IN RE GARCIA. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 18–6891 (18A571). GARCIA *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

No. 18–6892 (18A572). GARCIA *v.* COLLIER, EXECUTIVE DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, ET AL. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied. Reported below: 744 Fed. Appx. 231.

No. 18–6893 (18A573). GARCIA *v.* JONES ET AL. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied. Reported below: 910 F. 3d 188.

No. 18–6898 (18A579). GARCIA *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him

referred to the Court, denied. Certiorari denied. Reported below: 756 Fed. Appx. 391.

DECEMBER 6, 2018

Certiorari Denied

No. 18–6739 (18A528). MILLER ET AL. *v.* PARKER, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTION, ET AL. Sup. Ct. Tenn. Application for stay of execution of sentence of death, presented to JUSTICE SOTOMAYOR, and by her referred to the Court, denied. Certiorari denied. Reported below: 558 S. W. 3d 606.

JUSTICE SOTOMAYOR, dissenting from denial of application for stay and denial of certiorari.

I dissent for the reasons set out in *Miller* v. *Parker*, 586 U. S. 1048 (2018) (SOTOMAYOR, J., dissenting from denial of application for stay and denial of certiorari).

No. 18–6906 (18A578). MILLER *v.* PARKER, COMMISSIONER, TENNESSEE DEPARTMENT OF CORRECTION, ET AL. C. A. 6th Cir. Application for stay of execution of sentence of death, presented to JUSTICE SOTOMAYOR, and by her referred to the Court, denied. Certiorari denied. Reported below: 910 F. 3d 259.

JUSTICE SOTOMAYOR, dissenting.

Tennessee is scheduled to electrocute David Miller tonight. Miller is the second inmate in just over a month who has chosen to die by the electric chair in order to avoid the State's current lethal injection protocol. See *Zagorski* v. *Haslam*, 586 U. S. 981 (2018) (SOTOMAYOR, J., dissenting from denial of application for stay and denial of certiorari). Both so chose even though electrocution can be a dreadful way to die.* They did so against the backdrop of credible scientific evidence that lethal injection as currently practiced in Tennessee may well be even worse. See *Zagorski*, 586 U. S., at 981–982; *Irick* v. *Tennessee*, 585 U. S. 1048, 1048–1049 (2018) (SOTOMAYOR, J., dissenting from denial of application for stay).

The decision that the Court leaves undisturbed in this case rests in part on the fiction that Miller's choice was voluntary, and

*See *State* v. *Mata*, 275 Neb. 1, 66, 745 N. W. 2d 229, 278 (2008) (concluding that "electrocution will unquestionably inflict intolerable pain unnecessary to cause death in enough executions so as to present a substantial risk that any prisoner will suffer unnecessary and wanton pain").

in part on predictions about the efficacy of electric chairs made over a century ago. 910 F. 3d 259, 262 (CA6 2018); see *In re Kemmler*, 136 U. S. 436, 443–444 (1890). Another decision that the Court today declines to review faulted Miller for not proving an available alternative means of his own execution. See No. 18–6739, *Miller* v. *Parker*, 586 U. S. 1048. It did so while effectively permitting the State to turn that "perverse requirement" into a moving target. *McGehee* v. *Hutchinson*, 581 U. S. 933, 935 (2017) (SOTOMAYOR, J., dissenting from denial of application for stay and denial of certiorari). These cases are the unfortunate byproducts of this Court's decision in *Glossip* v. *Gross*, 576 U. S. 863 (2015). Such madness should not continue. Respectfully, I dissent.

DECEMBER 7, 2018

Certiorari Granted

No. 18–266. DUTRA GROUP *v.* BATTERTON. C. A. 9th Cir. Certiorari granted. Reported below: 880 F. 3d 1089.

DECEMBER 10, 2018

Appeal Dismissed

No. 18–433. LARRY *v.* ARKANSAS ET AL. Appeal from D. C. E. D. Ark. dismissed for want of jurisdiction.

Certiorari Dismissed

No. 18–6221. VINNIE *v.* HENRY ET AL. App. Ct. Mass. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 92 Mass. App. 1128, 102 N. E. 3d 1032.

Miscellaneous Orders

No. 18M70. PEREZ SOTO *v.* SUPREME COURT OF PUERTO RICO;

No. 18M72. WOODS *v.* WARDEN, FEDERAL DETENTION CENTER PHILADELPHIA;

No. 18M73. ROSE *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION;

No. 18M74. VILUTIS *v.* NRG SOLAR ALPINE LLC; and

No. 18M75. JAMES *v.* ELDORADO CASINO SHREVEPORT JOINT VENTURE ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M71. In re Chafe. Motion for leave to proceed as a veteran denied.

No. 17–1594. Return Mail, Inc. *v.* United States Postal Service et al. C. A. Fed. Cir. [Certiorari granted, 586 U. S. 959.] Motion of petitioner to dispense with printing joint appendix granted.

No. 18–5856. Jeep *v.* United States. C. A. 8th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 961] denied.

No. 18–6731. In re Sudberry. Petition for writ of habeas corpus denied.

No. 18–6537. In re Wooten; and
No. 18–6630. In re Gullett. Petitions for writs of mandamus denied.

No. 18–6551. In re Hoskins et al. Petition for writ of mandamus and/or prohibition denied.

No. 18–6511. In re Ezeah; and
No. 18–6561. In re Lopez. Petitions for writs of prohibition denied.

Certiorari Granted

No. 18–15. Kisor *v.* Wilkie, Secretary of Veterans Affairs. C. A. Fed. Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 869 F. 3d 1360.

Certiorari Denied

No. 17–1641. Thomas et vir *v.* Williams. C. A. 5th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 346.

No. 17–9169. Robinson *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 408.

No. 17–9238. Streeter *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 140900–U.

No. 18–7. Choctaw County, Mississippi, et al. *v.* Jauch. C. A. 5th Cir. Certiorari denied. Reported below: 874 F. 3d 425.

No. 18–39. Boyd *v.* Washington. Ct. App. Wash. Certiorari denied. Reported below: 1 Wash. App. 2d 501, 408 P. 3d 362.

No. 18–93. ZIMMERMAN *v.* CITY OF AUSTIN, TEXAS. C. A. 5th Cir. Certiorari denied. Reported below: 881 F. 3d 378.

No. 18–304. KIMBERLY-CLARK CORP. ET AL. *v.* DAVIDSON. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 3d 956.

No. 18–395. CORNING OPTICAL COMMUNICATIONS RF LLC *v.* PPC BROADBAND, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 714 Fed. Appx. 1022.

No. 18–412. WATTS *v.* ALLEN ET AL. Sup. Ct. Va. Certiorari denied.

No. 18–432. PINEDA, AKA PINEDA ALARCON *v.* NIELSON, SECRETARY OF HOMELAND SECURITY, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 348.

No. 18–437. MEDVEDEV *v.* HENRICO COUNTY. Sup. Ct. Va. Certiorari denied.

No. 18–438. PLACIDE *v.* SUPREME COURT OF WASHINGTON ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 190 Wash. 2d 402, 414 P. 3d 1124.

No. 18–448. ESTATE OF WEST, DECEASED *v.* DEPARTMENT OF VETERANS AFFAIRS. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 3d 432.

No. 18–471. COOPER *v.* BANK OF NEW YORK MELLON, TRUSTEE, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 368.

No. 18–574. RACHAL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–585. FRANCESCHI *v.* YEE ET AL. (Reported below: 887 F. 3d 927); and DEORIO *v.* YEE ET AL. (718 Fed. Appx. 548). C. A. 9th Cir. Certiorari denied.

No. 18–5313. STEELE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 729 Fed. Appx. 47.

No. 18–5509. MAKELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 721 Fed. Appx. 307.

No. 18–5670. CAMPISE *v.* NEW YORK COMMISSIONER OF LABOR. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 150 App. Div. 3d 1523, 54 N. Y. S. 3d 761.

No. 18–5843. CHANTHUNYA *v.* MARYLAND ATTORNEY GRIEVANCE COMMISSION. Ct. App. Md. Certiorari denied.

No. 18–5876. SANFORD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6128. DIAMOND *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied.

No. 18–6175. JONES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 241 So. 3d 65.

No. 18–6192. RODRIGUEZ *v.* GORE, SHERIFF, SAN DIEGO COUNTY, CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 18–6211. RODRIGUEZ *v.* SAN DIEGO COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6218. LINDEN *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6220. KELLY *v.* BISHOP, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 153.

No. 18–6224. LATNEY *v.* PARKER. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 202.

No. 18–6227. WESTER *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2018 IL App (2d) 150768–U.

No. 18–6230. SHOATE *v.* LEWIS, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 18–6231. RAHIM *v.* SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE, AND PARDON SERVICES. C. A. 4th Cir. Certiorari denied. Reported below: 707 Fed. Appx. 136.

No. 18–6234. BARRETT *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 18–6250. NAIRN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6252. WESSON *v.* OHIO. Ct. App. Ohio, 9th App. Dist., Summit County. Certiorari denied. Reported below: 2018-Ohio-834.

No. 18–6262. PENUNURI *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 5th 126, 418 P. 3d 263.

No. 18–6288. COOLEY *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 248.

No. 18–6295. WALCOTT *v.* LOUISIANA. Ct. App. La., 1st Cir. Certiorari denied.

No. 18–6312. MASON *v.* LINDSEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6316. WILKS *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 154 Ohio St. 3d 359, 2018-Ohio-1562, 114 N. E. 3d 1092.

No. 18–6320. MCGHEE *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6325. CONTRERAS-REBOLLAR *v.* OBENLAND, SUPERINTENDENT, MONROE CORRECTIONAL COMPLEX. C. A. 9th Cir. Certiorari denied.

No. 18–6326. COXE *v.* WHITE, SUPERINTENDENT, WASHINGTON STATE CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 18–6331. ROBINSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 250 So. 3d 5.

No. 18–6345. BRUETTE *v.* ZINKE, SECRETARY OF THE INTERIOR. C. A. 7th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 878.

No. 18–6353. BIEN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 550 S. W. 3d 180.

No. 18–6381. CROCKETT *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 18–6386. ADKINS *v.* WHOLE FOODS MARKET GROUP, INC. C. A. 4th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 238.

No. 18–6400. WATSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6406. TAPPEN *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 248 So. 3d 70.

No. 18–6414. LOCKE *v.* PARAMO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6416. WILLIAMS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 18–6453. THOMPSON *v.* NIELSON, SECRETARY OF HOMELAND SECURITY. C. A. 11th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 430.

No. 18–6464. LAPENA *v.* GRIGAS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 651.

No. 18–6480. HILL *v.* GAMMON, SUPERINTENDENT, MOBERLY CORRECTIONAL CENTER. C. A. 8th Cir. Certiorari denied.

No. 18–6499. JOHNSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 899 F. 3d 191.

No. 18–6536. WATERS *v.* LOCKETT, WARDEN. C. A. D. C. Cir. Certiorari denied. Reported below: 896 F. 3d 559.

No. 18–6542. LICEA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 713.

No. 18–6552. WOODS *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 480 Mass. 231, 102 N. E. 3d 961.

No. 18–6553. DIXON *v.* TEXAS (four judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 18–6554. COLLINS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6557. O'DELL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6560. WEAVER *v.* NICHOLSON, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 892 F. 3d 878.

No. 18–6564. HOLLIS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 183 A. 3d 737.

No. 18–6565. GORE *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2018 IL App (3d) 150627, 110 N. E. 3d 231.

No. 18–6566. FLOWERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 352.

No. 18–6567. DELPRADO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 800.

No. 18–6570. KAPRELIAN *v.* TEGELS, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 18–6573. FARRAD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 895 F. 3d 859.

No. 18–6574. HALL *v.* UNITED STATES; HILL *v.* UNITED STATES; JACKSON *v.* UNITED STATES; PROCTOR *v.* UNITED STATES; and ANGEL ROSARIO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6576. KEVRA-SHINER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 741 Fed. Appx. 130.

No. 18–6581. HAILEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 280.

No. 18–6582. GLASS *v.* HAINSWORTH, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET. C. A. 3d Cir. Certiorari denied.

No. 18–6583. FIUMANO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 721 Fed. Appx. 45.

No. 18–6584. FLENOID *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6585. GAGNON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6586. WOOD *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 187 A. 3d 1248.

No. 18–6587. MATTHEW *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 688.

No. 18–6589. YOUNG *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 94.

No. 18–6591. CHIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 785.

No. 18–6596. DURY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 231.

No. 18–6597. JOSEPH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 258.

No. 18–6600. LABRADOR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 270.

No. 18–6601. PALOMO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6602. NOLLEY *v.* MCLAUGHLIN, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6604. JENKINS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 727 Fed. Appx. 732.

No. 18–6605. PERRONE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 889 F. 3d 898.

No. 18–6606. MERRICK *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 702.

No. 18–6616. SANUTTI-SPENCER *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 183 A. 3d 1049.

No. 18–6618. MARQUEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 898 F. 3d 1036.

No. 18–6622. WILLIAMS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 3d 660.

No. 18–6625. BLAGMON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–6638. ISBELL *v.* MERLAK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6698. ALUISO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 84.

No. 17–1340. ANDERSEN, SECRETARY, KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT *v.* PLANNED PARENTHOOD OF KANSAS AND MID-MISSOURI ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 882 F. 3d 1205.

JUSTICE THOMAS, with whom JUSTICE ALITO and JUSTICE GORSUCH join, dissenting.

I dissent for the reasons set out in *Gee* v. *Planned Parenthood of Gulf Coast, Inc.*, 586 U. S. 1057 (2018) (THOMAS, J., dissenting from denial of certiorari).

No. 17–1492. GEE, SECRETARY, LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS *v.* PLANNED PARENTHOOD OF GULF COAST, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 862 F. 3d 445.

JUSTICE THOMAS, with whom JUSTICE ALITO and JUSTICE GORSUCH join, dissenting.

One of this Court's primary functions is to resolve "important matter[s]" on which the courts of appeals are "in conflict." This Court's Rule 10(a); *e. g., Thompson* v. *Keohane*, 516 U. S. 99, 106 (1995). This case and *Andersen* v. *Planned Parenthood of Kan. and Mid-Missouri*, 586 U. S. 1057 (2018), present a conflict on a federal question with significant implications: whether Medicaid recipients have a private right of action to challenge a State's determination of "qualified" Medicaid providers under 42 U. S. C. § 1396a(a)(23) and Rev. Stat. § 1979, 42 U. S. C. § 1983. Five Circuits have held that Medicaid recipients have such a right, and one Circuit has held that they do not.* The last three Circuits to consider the question have themselves been divided.

This question is important and recurring. Around 70 million Americans are on Medicaid, and the question presented directly affects their rights. If the majority of the courts of appeals are correct, then Medicaid patients could sue when, for example, a State removes their doctor as a Medicaid provider or inadequately reimburses their provider. *E. g., Bader* v. *Wernert*, 178

*Compare *Planned Parenthood of Kan.* v. *Andersen*, 882 F. 3d 1205, 1225–1229 (CA10 2018); 862 F. 3d 445, 457–462 (CA5 2017) (case below); *Planned Parenthood of Ariz., Inc.* v. *Betlach*, 727 F. 3d 960, 966–968 (CA9 2013); *Planned Parenthood of Ind., Inc.* v. *Commissioner of Ind. State Dept. of Health*, 699 F. 3d 962, 974–977 (CA7 2012); *Harris* v. *Olszewski*, 442 F. 3d 456, 461–465 (CA6 2006), with *Does* v. *Gillespie*, 867 F. 3d 1034, 1041–1046 (CA8 2017).

F. Supp. 3d 703 (ND Ind. 2016); *Women's Hospital Foundation* v. *Townsend*, 2008 WL 2743284 (MD La., July 10, 2008). Because of this Court's inaction, patients in different States—even patients with the same providers—have different rights to challenge their State's provider decisions.

The question presented also affects the rights of the States, many of which are *amici* requesting our guidance. Under the current majority rule, a State faces the threat of a federal lawsuit—and its attendant costs and fees—whenever it changes providers of medical products or services for its Medicaid recipients. *E. g.*, *Harris* v. *Olszewski*, 442 F. 3d 456 (CA6 2006). Not only are the lawsuits themselves a financial burden on the States, but the looming potential for complex litigation inevitably will dissuade state officials from making decisions that they believe to be in the public interest. State officials are not even safe doing nothing, as the cause of action recognized by the majority rule may enable Medicaid recipients to challenge the *failure* to list particular providers, not just the removal of former providers. *E. g.*, *Kapable Kids Learning Center, Inc.* v. *Arkansas Dept. of Human Servs.*, 420 F. Supp. 2d 956 (ED Ark. 2005); *Martin* v. *Taft*, 222 F. Supp. 2d 940 (SD Ohio 2002). Moreover, allowing patients to bring these claims directly in federal court reduces the ability of States to manage Medicaid, as the suits give Medicaid providers "an end run around the administrative exhaustion requirements in [the] state's statutory scheme." 876 F. 3d 699, 702 (CA5 2017) (Elrod, J., dissenting from denial of rehearing en banc).

Finally, the disagreement over § 1396a(a)(23) implicates fundamental questions about the appropriate framework for determining when a cause of action is available under § 1983—an important legal issue independently worthy of this Court's attention. The division in the lower courts stems, at least in part, from this Court's own lack of clarity on the issue. As one court observed, the disagreement "can be explained in part by an evolution in the law," *Does* v. *Gillespie*, 867 F. 3d 1034, 1043 (CA8 2017)—a tactful way of saying that this Court made a mess of the issue. We have acknowledged as much, explaining that language in our early opinions could be "read to suggest that something less than an unambiguously conferred right" can give rise to a cause of action under § 1983, and that "[t]his confusion has led some courts" astray. *Gonzaga Univ.* v. *Doe*, 536 U. S. 273, 282–283 (2002). We

have "[f]uel[ed] this uncertainty" by equivocating on whether the standards for implying private rights of action have any "bearing on the standards for discerning whether a statute creates rights enforceable by §1983." *Id.*, at 283. Courts are not even able to identify which of our decisions are "binding"; in *Planned Parenthood of Kan.* v. *Andersen*, 882 F. 3d 1205 (CA10 2018), the Court of Appeals applied a decision that this Court recently said had been "'plainly repudiate[d].'" *Id.*, at 1229, and n. 16 (quoting *Armstrong* v. *Exceptional Child Center, Inc.*, 575 U. S. 320, 330, n. (2015), in turn citing *Wilder* v. *Virginia Hospital Assn.*, 496 U. S. 498 (1990)). One can hardly blame the Tenth Circuit for misunderstanding. We created this confusion. We should clear it up.

So what explains the Court's refusal to do its job here? I suspect it has something to do with the fact that some respondents in these cases are named "Planned Parenthood." That makes the Court's decision particularly troubling, as the question presented has nothing to do with abortion. It is true that these particular cases arose after several States alleged that Planned Parenthood affiliates had, among other things, engaged in "the illegal sale of fetal organs" and "fraudulent billing practices," and thus removed Planned Parenthood as a state Medicaid provider. *Andersen*, 882 F. 3d, at 1239, n. 2 (Bacharach, J., concurring in part and dissenting in part). But these cases are not about abortion rights. They are about private rights of action under the Medicaid Act. Resolving the question presented here would not even affect Planned Parenthood's ability to challenge the States' decisions; it concerns only the rights of individual Medicaid patients to bring their own suits.

Some tenuous connection to a politically fraught issue does not justify abdicating our judicial duty. If anything, neutrally applying the law is all the more important when political issues are in the background. The Framers gave us lifetime tenure to promote "that independent spirit in the judges which must be essential to the faithful performance" of the courts' role as "bulwarks of a limited Constitution," unaffected by fleeting "mischiefs." The Federalist No. 78, pp. 469–470 (C. Rossiter ed. 1961) (A. Hamilton). We are not "to consult popularity," but instead to rely on "nothing . . . but the Constitution and the laws." *Id.*, at 471.

We are responsible for the confusion among the lower courts, and it is our job to fix it. I respectfully dissent from the Court's decision to deny certiorari.

No. 17–9038. BANKS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 884 F. 3d 998.

No. 18–138. HUFFMAN *v.* NIELSEN, SECRETARY OF HOMELAND SECURITY. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 732 Fed. Appx. 1.

No. 18–408. KOHN LAW GROUP, INC. *v.* AUTO PARTS MANUFACTURING MISSISSIPPI, INC. C. A. 5th Cir. Motion of Federal Bar Association Southern District of New York Chapter, Network of Bar Leaders, et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 725 Fed. Appx. 305.

No. 18–436. LIBERTY MUTUAL INSURANCE CO., DBA LIBERTY INTERNATIONAL UNDERWRITERS, ET AL. *v.* CARRIZO OIL & GAS, INC. C. A. 5th Cir. Motion of American Institute of Marine Underwriters for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 896 F. 3d 350.

No. 18–6424. DEITER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 890 F. 3d 1203.

No. 18–6559. ALEXANDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 726 Fed. Appx. 262.

No. 18–6593. MOLINA-VARELA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 726 Fed. Appx. 722.

No. 18–6599. JORDAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

Rehearing Denied

No. 17–8780. CAINES *v.* GASTELO, WARDEN, 586 U. S. 832;
No. 17–8847. SATTERWHITE *v.* FRISCH'S RESTAURANT ET AL., 586 U. S. 834;
No. 17–8956. BONNER *v.* CUMBERLAND REGIONAL HIGH SCHOOL DISTRICT, 586 U. S. 837;
No. 17–8970. BLAKENEY *v.* UNITED STATES, 586 U. S. 837;
No. 17–8971. BARTLETT *v.* PINEDA, JUDGE, SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL., 586 U. S. 837;
No. 17–9351. TRIPLETT *v.* WYOMING, 586 U. S. 855;
No. 17–9488. BROWN *v.* ILLINOIS DEPARTMENT OF HUMAN SERVICES, 586 U. S. 863;
No. 17–9526. CRUZ *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY, 586 U. S. 865;
No. 18–38. ERWIN *v.* DEPARTMENT OF THE ARMY, 586 U. S. 871;
No. 18–5145. BENNETT *v.* WOLFE ET AL., 586 U. S. 885;
No. 18–5157. IN RE LUIS AREVALO, 586 U. S. 813;
No. 18–5382. FIEDLER *v.* BRINDLEY ET AL., 586 U. S. 897;
No. 18–5622. WALKER *v.* UNITED STATES, 586 U. S. 904;
No. 18–5808. ANGEL RONDON *v.* UNITED STATES, 586 U. S. 927; and
No. 18–5933. WILKERSON *v.* UNITED STATES, 586 U. S. 930. Petitions for rehearing denied.

No. 17–9374. CARTER *v.* KANE ET AL., 586 U. S. 910. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

DECEMBER 13, 2018

Certiorari Denied

No. 18–6970 (18A606). ANTONIO JIMENEZ *v.* FLORIDA. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 265 So. 3d 462.

No. 18–7020 (18A628). ANTONIO JIMENEZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 758 Fed. Appx. 682.

DECEMBER 18, 2018

Dismissal Under Rule 46

No. 18–42. GLAXOSMITHKLINE LLC *v.* LOUISIANA. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 879 F. 3d 61.

DECEMBER 19, 2018

Dismissal Under Rule 46

No. 18–572. MCCALL *v.* APTIM CORP. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 888 F. 3d 129.

DECEMBER 21, 2018

Miscellaneous Order

No. 18A615. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* EAST BAY SANCTUARY COVENANT ET AL. D. C. N. D. Cal. Application for stay, presented to JUSTICE KAGAN, and by her referred to the Court, denied. JUSTICE THOMAS, JUSTICE ALITO, JUSTICE GORSUCH, and JUSTICE KAVANAUGH would grant the application for stay.

JANUARY 4, 2019

Miscellaneous Orders

No. 17–1625. RIMINI STREET, INC., ET AL. *v.* ORACLE USA, INC., ET AL. C. A. 9th Cir. [Certiorari granted, 585 U. S. 1058.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 18–96. TENNESSEE WINE AND SPIRITS RETAILERS ASSN. *v.* BLAIR, INTERIM DIRECTOR OF THE TENNESSEE ALCOHOLIC BEVERAGE COMMISSION, ET AL. C. A. 6th Cir. [Certiorari granted *sub nom. Tennessee Wine and Spirits Retailers Assn.* v. *Byrd*, 585 U. S. 1058.] Motion of Illinois et al. for leave to participate in oral argument as *amici curiae* and for divided argument granted. Joint motion of respondents for divided argument denied.

Probable Jurisdiction Postponed

No. 18–422. RUCHO ET AL. *v.* COMMON CAUSE ET AL. Appeal from D. C. M. D. N. C. Further consideration of question of

jurisdiction postponed to hearing of case on the merits. Case will be set for argument in the March argument session. Reported below: 318 F. Supp. 3d 777.

No. 18–726. LAMONE ET AL. *v.* BENISEK ET AL. Appeal from D. C. Md. Motion of David Trone for leave to file brief as *amicus curiae* granted. Further consideration of question of jurisdiction postponed to hearing of case on the merits. Case will be set for argument in the March argument session. Reported below: 348 F. Supp. 3d 493.

Certiorari Granted

No. 18–302. IANCU, UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND DIRECTOR, PATENT AND TRADEMARK OFFICE *v.* BRUNETTI. C. A. Fed. Cir. Certiorari granted. Reported below: 877 F. 3d 1330.

No. 18–459. EMULEX CORP. ET AL. *v.* VARJABEDIAN ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 888 F. 3d 399.

No. 18–489. TAGGART *v.* LORENZEN, EXECUTOR OF THE ESTATE OF BROWN, ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 888 F. 3d 438.

No. 18–431. UNITED STATES *v.* DAVIS ET AL. C. A. 5th Cir. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 903 F. 3d 483.

JANUARY 7, 2019

Certiorari Granted—Reversed in part, Vacated in Part, and Remanded. (See *Escondido* v. *Emmons*, 586 U. S. 38 (2019) (*per curiam*).)

Certiorari Granted—Vacated and Remanded. (See also *Shoop* v. *Hill*, 586 U. S. 45 (2019) (*per curiam*).)

No. 18–195. POFF *v.* UNITED STATES. C. A. 9th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Lagos* v. *United States*, 584 U. S. 577 (2018). Reported below: 727 Fed. Appx. 249.

No. 18–227. WOLFE *v.* VIRGINIA. Sup. Ct. Va. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Class* v. *United States*, 583 U. S. 174 (2018).

Certiorari Dismissed

No. 18–6289. SMALL *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 253 So. 3d 1111.

No. 18–6380. BARTLETT *v.* PINEDA, JUDGE, SUPERIOR COURT OF ARIZONA, MARICOPA COUNTY, ET AL. Ct. App. Ariz. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6460. BYNUM *v.* DEKALB COUNTY SANITATION. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6491. REEVES *v.* LASHBROOK, WARDEN. Sup. Ct. Ill. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6503. RICHARD *v.* DISTRICT ATTORNEY OF WESTMORELAND COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6523. BELL *v.* ORLANDO HEALTH, INC., DBA WINNIE PALMER HOSPITAL. Dist. Ct. App. Fla., 5th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6922. SINGH *v.* WELLS FARGO BANK, N. A. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

Miscellaneous Orders

No. 18A511. ZODHIATES *v.* UNITED STATES. C. A. 2d Cir. Application for stay, addressed to JUSTICE GORSUCH and referred to the Court, denied.

No. 18M76. FURMINGER *v.* UNITED STATES. Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE BREYER took no part in the consideration or decision of this motion.

No. 18M77. HIRAMANEK *v.* CLARK ET AL.;
No. 18M78. BARBER *v.* SHERMAN, WARDEN;
No. 18M79. WEBB-EL *v.* KANE ET AL.;
No. 18M80. DRIVAS *v.* UNITED STATES;
No. 18M81. DOUGHERTY *v.* GILMORE, WARDEN;
No. 18M84. WILSON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS;
No. 18M85. MARSHALL *v.* ASH ET AL.; and
No. 18M87. ABDUR-RAHIIM *v.* UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 18M82. BUSH *v.* ARIZONA. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 18M83. DOE *v.* UNITED STATES; and
No. 18M86. WESTERNGECO LLC *v.* ION GEOPHYSICAL CORP. Motions for leave to file petitions for writs of certiorari under seal with redacted copies for the public record granted.

No. 148, Orig. MISSOURI ET AL. *v.* CALIFORNIA. Motion for leave to file bill of complaint denied. JUSTICE THOMAS would grant the motion. [For earlier order herein, see 584 U. S. 929.]

No. 149, Orig. INDIANA ET AL. *v.* MASSACHUSETTS. Motion for leave to file bill of complaint denied. JUSTICE THOMAS would grant the motion. [For earlier order herein, see 584 U. S. 929.]

No. 17–1672. UNITED STATES *v.* HAYMOND. C. A. 10th Cir. [Certiorari granted, 586 U. S. 960.] Motion of petitioner to dispense with printing joint appendix granted.

No. 17–8926. HARPER *v.* TEXAS ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 802] denied.

No. 17–9269. IN RE RODGERS. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 812] denied.

No. 17–9538. HARPER *v.* CROW. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 805] denied.

No. 18–252. REAL ESTATE ALLIANCE LTD. *v.* MOVE, INC., ET AL., 586 U. S. 987. Motion of Mark Tornetta for leave to intervene to file a petition for rehearing denied.

No. 18–415. HP INC., FKA HEWLETT-PACKARD CO. *v.* BERKHEIMER. C. A. Fed. Cir.;

No. 18–575. YPF S. A. *v.* PETERSEN ENERGIA INVERSORA S. A. U. ET AL. C. A. 2d Cir.;

No. 18–581. ARGENTINE REPUBLIC *v.* PETERSEN ENERGIA INVERSORA S. A. U. ET AL. C. A. 2d Cir.; and

No. 18–600. TEXAS ADVANCED OPTOELECTRONIC SOLUTIONS, INC. *v.* RENESAS ELECTRONICS AMERICA, INC., FKA INTERSIL CORP. C. A. Fed. Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 18–5863. JOHNSON *v.* BUTLER LAW FIRM. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 986] denied.

No. 18–6410. MCKINZY *v.* GASTON *(*MCKINZY). Ct. App. Mo., Western Dist.;

No. 18–6781. FARR *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 10th Cir.;

No. 18–6792. FILLMORE *v.* INDIANA BELL TELEPHONE CO., INC. C. A. 7th Cir.;

No. 18–6813. GHOSH *v.* CITY OF BERKELEY, CALIFORNIA. Ct. App. Cal., 1st App. Dist.; and

No. 18–7063. IN RE DREAD. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until January 28, 2019, 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.

No. 18–6949. KLEIN *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until January 28, 2019, 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. JUSTICE SOTOMAYOR and JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 18–6579. IN RE MCQUARRY;

No. 18–6784. IN RE RIVERA;
No. 18–6787. IN RE BAILEY; and
No. 18–6961. IN RE JOHNSON. Petitions for writs of habeas corpus denied.

No. 18–488. IN RE IDLETT;
No. 18–6357. IN RE SENTHILNATHAN;
No. 18–6479. IN RE GALVAN; and
No. 18–6526. IN RE YONAMINE. Petitions for writs of mandamus denied.

No. 18–6449. IN RE SULTAANA; and
No. 18–6500. IN RE RUMANEK. Petitions for writs of mandamus and/or prohibition denied.

No. 18–6478. IN RE GAITOR. Petition for writ of prohibition denied.

Certiorari Denied

No. 17–936. GILEAD SCIENCES, INC. *v.* UNITED STATES EX REL. CAMPIE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 862 F. 3d 890.

No. 17–1149. UNITED STATES EX REL. HARMAN *v.* TRINITY INDUSTRIES, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 872 F. 3d 645.

No. 17–1285. ASSOCIATION DES ELEVEURS DE CANARDS ET D'OIES DU QUEBEC ET AL. *v.* BECERRA, ATTORNEY GENERAL OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 870 F. 3d 1140.

No. 17–1301. HARVEY ET AL. *v.* UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION ET AL. Sup. Ct. Utah. Certiorari denied. Reported below: 2017 UT 75, 416 P. 3d 401.

No. 17–1404. GORDON *v.* LAFLER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 654.

No. 17–1704. KERR, FOR KERR, DECEASED *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 6th Cir. Certiorari denied. Reported below: 874 F. 3d 926.

No. 17–7517. SMITH *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 3d 720.

No. 17–8160. KHOURY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 877 F. 3d 720.

No. 17–8282. NEBINGER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 17–9259. COLLINS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied.

No. 18–16. ELIJAH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 191.

No. 18–36. BRICE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 179 A. 3d 870.

No. 18–98. COOK *v.* MISSISSIPPI. Ct. App. Miss. Certiorari denied. Reported below: 242 So. 3d 865.

No. 18–110. BURNINGHAM ET AL. *v.* RAINES, GUARDIAN OF THE ESTATE OF RAINES. C. A. 8th Cir. Certiorari denied. Reported below: 883 F. 3d 1071.

No. 18–122. SINEGAL *v.* POLK. C. A. 5th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 457.

No. 18–127. AMGEN INC. ET AL. *v.* SANOFI ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 872 F. 3d 1367.

No. 18–168. NICHOLS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* CHESAPEAKE OPERATING, LLC, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 736.

No. 18–177. DAWSON *v.* BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, COLORADO, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 624.

No. 18–185. CONNECTICUT *v.* SKAKEL. Sup. Ct. Conn. Certiorari denied. Reported below: 329 Conn. 1, 188 A. 3d 1.

No. 18–203. CHANDLER *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 242 So. 3d 65.

No. 18–229. CURRY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 968.

No. 18–238. SOUTH CAROLINA *v.* SAMUEL. Sup. Ct. S. C. Certiorari denied. Reported below: 422 S. C. 596, 813 S. E. 2d 487.

No. 18–261. CEBREROS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–273. WILLIAMS, AKA WILLIAMSON *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 880 F. 3d 100.

No. 18–274. STEWART *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 651.

No. 18–288. MEARING *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–308. BETHEA *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 255 N. C. App. 749, 806 S. E. 2d 677.

No. 18–311. EXXON MOBIL CORP. *v.* HEALEY, ATTORNEY GENERAL OF MASSACHUSSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 479 Mass. 312, 94 N. E. 3d 786.

No. 18–331. PABON ORTEGA *v.* LLOMPART ZENO ET AL. C. A. 1st Cir. Certiorari denied.

No. 18–333. OLD DOMINION ELECTRIC COOPERATIVE *v.* FEDERAL ENERGY REGULATORY COMMISSION. C. A. D. C. Cir. Certiorari denied. Reported below: 892 F. 3d 1223.

No. 18–337. COUNTY OF ORANGE, CALIFORNIA, ET AL. *v.* GORDON, INDIVIDUALLY AND AS SUCCESSOR IN INTEREST TO GORDON, DECEASED. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 3d 1118.

No. 18–339. HARPER *v.* LEAHY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 738 Fed. Appx. 716.

No. 18–348. WEISLER *v.* JEFFERSON PARISH SHERIFF'S OFFICE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 468.

No. 18–355. PRISON LEGAL NEWS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 890 F. 3d 954.

No. 18–359. ST. BERNARD PARISH ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 887 F. 3d 1354.

No. 18–373. ROSE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 891 F. 3d 82.

No. 18–374. LEMUS CASTILLO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 3d 1208.

No. 18–375. ALEXANDER *v.* BAYVIEW LOAN SERVICING, LLC. Sup. Ct. Fla. Certiorari denied.

No. 18–378. MERCK & CO., INC., ET AL. *v.* GILEAD SCIENCES, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 888 F. 3d 1231.

No. 18–386. VASQUEZ ET AL. *v.* FOXX, STATE'S ATTORNEY OF COOK COUNTY, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 895 F. 3d 515.

No. 18–418. UNITED STATES EX REL. HARPER ET AL. *v.* MUSKINGUM WATERSHED CONSERVANCY DISTRICT. C. A. 6th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 330.

No. 18–445. RAMIREZ *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied. Reported below: 557 S. W. 3d 717.

No. 18–453. DE HAVILLAND *v.* FX NETWORKS, LLC, ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied. Reported below: 21 Cal. App. 5th 845, 230 Cal. Rptr. 3d 625.

No. 18–458. PELLEGRINI *v.* FRESNO COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 209.

No. 18–470. STOKES *v.* CORSBIE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 263.

No. 18–473. DAVIS *v.* DEUTSCHE BANK NATIONAL TRUST CO. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 379.

No. 18–474. LYON *v.* CANADIAN NATIONAL RAILWAY COMPANY ET AL. C. A. 7th Cir. Certiorari denied.

No. 18–476. COWLITZ COUNTY, WASHINGTON, ET AL. *v.* CROWELL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 593.

No. 18–477. MARTIN ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 894 F. 3d 1356.

No. 18–478. MALNES *v.* CITY OF FLAGSTAFF, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 710 Fed. Appx. 764.

No. 18–479. SCHENKEL *v.* XYNGULAR CORP. ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 890 F. 3d 868.

No. 18–482. HILL *v.* ACCOUNTS RECEIVABLE SERVICES, LLC. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 343.

No. 18–487. D. A. *v.* D. P. Ct. App. Ind. Certiorari denied. Reported below: 96 N. E. 3d 663.

No. 18–490. WATTS *v.* ALLEN. Sup. Ct. Va. Certiorari denied.

No. 18–491. RAY *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–493. SPANO *v.* FLORIDA BAR. Sup. Ct. Fla. Certiorari denied.

No. 18–495. MORRIS & ASSOCIATES, INC. *v.* JOHN BEAN TECHNOLOGIES CORP. C. A. Fed. Cir. Certiorari denied. Reported below: 887 F. 3d 1322.

No. 18–502. KINNEY ET AL. *v.* ANDERSON LUMBER CO., INC. C. A. 6th Cir. Certiorari denied.

No. 18–504. KINNEY *v.* BOREN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 410.

No. 18–507. MCDONALD *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE. C. A. 6th Cir. Certiorari denied.

No. 18–508. KINNEY *v.* TAKEUCHI ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 414.

No. 18–510. KINNEY *v.* CLARK ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 411.

No. 18–511. GATES *v.* KHOKHAR ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 884 F. 3d 1290.

No. 18–512. SIMMONS *v.* SMITH, ACTING DIRECTOR OF THE NATIONAL PARK SERVICE, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 888 F. 3d 994.

No. 18–514. DRAKE ET AL. *v.* DEUTSCHE BANK NATIONAL TRUST CO. Ct. App. Kan. Certiorari denied. Reported below: 54 Kan. App. 2d x, 404 P. 3d 372.

No. 18–515. KINNEY *v.* CLARK ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 413.

No. 18–516. KINNEY *v.* GUTIERREZ ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 709 Fed. Appx. 453.

No. 18–517. KINNEY *v.* GUTIERREZ. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 415.

No. 18–518. KINNEY *v.* CLERK, COURT OF APPEAL OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION THREE, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 420.

No. 18–519. JENNINGS *v.* JENNINGS. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied. Reported below: 2017-Ohio-8974.

No. 18–520. WECONNECT, INC. *v.* GOPLIN. C. A. 7th Cir. Certiorari denied. Reported below: 893 F. 3d 488.

No. 18–521. JUAN *v.* JNESO DISTRICT COUNCIL 1 ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–523. GRIFFIN *v.* VERIZON COMMUNICATIONS INC. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 746 Fed. Appx. 873.

No. 18–526. CHOIZILME *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 3d 1016.

No. 18–527. STRAUB *v.* CITY OF SPOKANE, WASHINGTON, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 392.

No. 18–528. KIFLE ET AL. *v.* AHMED. C. A. 11th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 934.

No. 18–529. JENN-CHING LUO *v.* OWEN J. ROBERTS SCHOOL DISTRICT ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 111.

No. 18–536. TAYLOR *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 18–537. JAMES *v.* MONTGOMERY REGIONAL AIRPORT AUTHORITY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 772.

No. 18–549. VOTER VERIFIED, INC. *v.* ELECTION SYSTEMS & SOFTWARE LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 887 F. 3d 1376.

No. 18–550. STOKES *v.* CORSBIE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 319.

No. 18–558. GUTIERREZ *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied. Reported below: 887 F. 3d 770.

No. 18–559. NEGATU *v.* WELLS FARGO BANK, N. A. Ct. App. D. C. Certiorari denied. Reported below: 189 A. 3d 715.

No. 18–564. DECOSIMO *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 555 S. W. 3d 494.

No. 18–567. SNAPP *v.* BURLINGTON NORTHERN SANTA FE RAILWAY CO. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 3d 1088.

No. 18–569. SHAO *v.* TSAN-KUEN WANG. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–570. TUNAC, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF TUNAC, DECEASED *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 897 F. 3d 1197.

No. 18–571. WILLIAMS *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 730 Fed. Appx. 930.

No. 18–577. NETZER *v.* SHELL OIL CO. ET AL. C. A. Fed. Cir. Certiorari denied.

No. 18–582. YAGMAN *v.* COLELLO. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 463.

No. 18–583. MAYLE *v.* UNITED STATES ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 891 F. 3d 680.

No. 18–584. HORNE *v.* WTVR, LLC, DBA CBS6. C. A. 4th Cir. Certiorari denied. Reported below: 893 F. 3d 201.

No. 18–586. KOCH *v.* ESTRELLA ET AL. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 18–590. CAVE CONSULTING GROUP, LLC *v.* OPTUMINSIGHT, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 725 Fed. Appx. 988.

No. 18–591. DRESSLER *v.* RICE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 814.

No. 18–592. FERGUSON FLORISSANT SCHOOL DISTRICT *v.* MISSOURI STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 894 F. 3d 924.

No. 18–594. SNYDER *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 18–595. TATTEN *v.* CITY AND COUNTY OF DENVER, COLORADO, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 620.

No. 18–598. CHIEN *v.* CLARK ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–599. WI-FI ONE, LLC *v.* BROADCOM CORP. ET AL. (three judgments). C. A. Fed. Cir. Certiorari denied. Reported below: 887 F. 3d 1329 (first judgment); 719 Fed. Appx. 1018 (second and third judgments).

No. 18–602. SMITH *v.* LAKEWOOD RANCH GYMNASTICS LLC ET AL. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 254 So. 3d 339.

No. 18–603. SIEGEL ET AL. *v.* DELTA AIR LINES, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 986.

No. 18–605. STEIN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 18–611. TATAR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–613. GRIFFIN *v.* AETNA HEALTH INC. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 169.

No. 18–616. NEPAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 894 F. 3d 204.

No. 18–619. HUSSEIN *v.* WHITAKER, ACTING ATTORNEY GENERAL, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 715 Fed. Appx. 585.

No. 18–623. WALKER *v.* WEATHERSPOON ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 3d 354.

No. 18–624. RASKO *v.* NEW YORK CITY ADMINISTRATION FOR CHILDREN'S SERVICES. C. A. 2d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 52.

No. 18–627. STARRETT *v.* LOCKHEED MARTIN CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 169.

No. 18–629. CODY *v.* CALIFORNIA AIR RESOURCES BOARD ET AL.; and

No. 18–666. ALLIANCE FOR CALIFORNIA BUSINESS *v.* CALIFORNIA AIR RESOURCES BOARD. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 23 Cal. App. 5th 1050, 234 Cal. Rptr. 3d 22.

No. 18–632. LEROUX *v.* NCL (BAHAMAS), LTD. C. A. 11th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 407.

No. 18–633. BYRD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–637. MARRO *v.* CAESAR'S ENTERTAINMENT OPERATING CO. C. A. 7th Cir. Certiorari denied.

No. 18–639. BISZCZANIK *v.* NATIONSTAR MORTGAGE, LLC, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–667. WILLIAMS *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 18–675. WEST *v.* MISSOURI. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 551 S. W. 3d 506.

No. 18–683. STARK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 767.

No. 18–685. ROBINSON ET AL. *v.* AMERICAN AIRLINES, INC., ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 233.

No. 18–688. MANN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 747 Fed. Appx. 790.

No. 18–698. REYNOLDS *v.* MARYLAND. Ct. App. Md. Certiorari denied. Reported below: 461 Md. 159, 192 A. 3d 617.

No. 18–702. YADAV ET UX. *v.* NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–706. KIOBEL, BY AND THROUGH HER ATTORNEY-IN-FACT, SAMKALDEN *v.* CRAVATH, SWAINE & MOORE LLP. C. A. 2d Cir. Certiorari denied. Reported below: 895 F. 3d 238.

No. 18–708. BERTRAM ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 900 F. 3d 743.

No. 18–714. CHHAY LIM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 3d 673.

No. 18–737. AIME ET AL. *v.* JTH TAX, INC., DBA LIBERTY TAX SERVICE, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 744 Fed. Appx. 787.

No. 18–5008. CANADATE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5090. MASON *v.* BURTON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 241.

No. 18–5118. FLOYD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 872 F. 3d 760.

No. 18–5147. WING *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 592.

No. 18–5209. BARRETT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 288.

No. 18–5251. DAMBELLY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 714 Fed. Appx. 87.

No. 18–5314. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 878 F. 3d 498.

No. 18–5398. PRUTTING *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 886.

No. 18–5418. GREEN *v.* COLORADO. Sup. Ct. Colo. Certiorari denied.

No. 18–5464. BENITEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 783.

No. 18–5504. POSEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5505. MORRIS *v.* MAYS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–5549. KENNER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–5594. WASHINGTON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 890 F. 3d 891.

No. 18–5626. WISHNEFSKY *v.* SALAMEH ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–5634. KINKEL *v.* LANEY, SUPERINTENDENT, OREGON STATE CORRECTIONAL INSTITUTION. Sup. Ct. Ore. Certiorari denied. Reported below: 363 Ore. 1, 417 P. 3d 401.

No. 18–5655. FOSTER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 129.

No. 18–5664. CHEESEBORO *v.* LITTLE RICHIE BUS SERVICE, INC. C. A. 2d Cir. Certiorari denied. Reported below: 722 Fed. Appx. 107.

No. 18–5691. BAKER *v.* CHEATHAM, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–5730. DENMARK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–5762. GARCIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 621.

No. 18–5770. ROUSE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 853.

No. 18–5771. QUALLS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 592.

No. 18–5821. FARMER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–5853. BINNS *v.* CITY OF MARIETTA, GEORGIA. C. A. 11th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 797.

No. 18–5880. CAUDILL *v.* CONOVER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 881 F. 3d 454.

No. 18–5898. CASTILLO VALERIO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 551.

No. 18–5923. SANCHEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 938.

No. 18–5939. ALLEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 313.

No. 18–5945. CHIDDO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 917.

No. 18–5960. GHARIB *v.* CASEY (three judgments). C. A. 9th Cir. Certiorari denied. Reported below: 692 Fed. Appx. 950 (first judgment); 727 Fed. Appx. 455 (third judgment) and 456 (second judgment).

No. 18–5980. JONES *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 890 F. 3d 559.

No. 18–6005. WILLIAMS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 893 F. 3d 696.

No. 18–6013. WYATT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6044. BEASLEY *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 153 Ohio St. 3d 497, 2018-Ohio-493, 108 N. E. 3d 1028.

No. 18–6070. CORNWELL *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6071. NAYSHTUT *v.* COMERCIALIZADORA TRAVEL ADVISORY, S. A. DE C. V., ET AL. Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied.

No. 18–6137. BURTON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 722 Fed. Appx. 677.

No. 18–6160. CARMODY *v.* BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 893 F. 3d 397.

No. 18–6174. LANG *v.* BOBBY, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 889 F. 3d 803.

No. 18–6214. SANDERS *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 3d 778.

No. 18–6233. SCHUERMANN *v.* ANQUI. Sup. Ct. Fla. Certiorari denied.

No. 18–6236. SWAN *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6239. REILLY *v.* HERRERA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 760.

No. 18–6243. JACKSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 241 So. 3d 914.

No. 18–6244. MARTIN *v.* OKLAHOMA ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 612.

No. 18–6245. KIRKLAND *v.* PROGRESSIVE INSURANCE CO. ET AL. Ct. Civ. App. Ala. Certiorari denied. Reported below: 278 So. 3d 483.

No. 18–6247. PARKER *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6261. VARGAS, AKA VARGAS ROMERO *v.* MCMAHON. C. A. 9th Cir. Certiorari denied.

No. 18–6263. VARGAS, AKA VARGAS ROMERO *v.* MCMAHON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 714 Fed. Appx. 813.

No. 18–6264. REQUENA *v.* ROBERTS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 893 F. 3d 1195.

No. 18–6272. STESHENKO *v.* MCKAY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 298.

No. 18–6274. KLEIN *v.* CENTENNIAL RANCH AND ASPEN MOUNTAIN RANCH ASSN. Ct. App. Colo. Certiorari denied.

No. 18–6276. TERRELL *v.* BERRY, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 18–6278. MARTIN *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6287. CRUTSINGER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 898 F. 3d 584.

No. 18–6290. SOLGADO *v.* BRAUN, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 18–6294. WALCOTT *v.* TERREBONNE PARISH JAIL MEDICAL DEPARTMENT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 361.

No. 18–6296. JACOME *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 18–6298. FRATTA *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 889 F. 3d 225.

No. 18–6307. LATIMER *v.* MACOMBER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6311. WALTERS *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–6315. IVY *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6318. WARE *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6323. HUNTER *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2018 ND 173, 914 N. W. 2d 527.

No. 18–6332. STROBLE *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 726 Fed. Appx. 254.

No. 18–6334. WIGGINS *v.* TANNER, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6340. WILLIAMS *v.* SAFIRE ET AL. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 18–6344. LACY *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 174, 545 S. W. 3d 746.

No. 18–6354. JOSSIE *v.* CVS PHARMACY. C. A. 11th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 912.

No. 18–6356. REYES *v.* ARTUS. C. A. 2d Cir. Certiorari denied.

No. 18–6365. BARTLETT *v.* MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6367. CARTER *v.* AYALA ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6368. CALHOUN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–6382. CHAVEZ *v.* BERRYHILL, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 7th Cir. Certiorari denied. Reported below: 895 F. 3d 962.

No. 18–6383. KULICK *v.* REIN. C. A. 9th Cir. Certiorari denied.

No. 18–6384. LANTERI *v.* CONNECTICUT. C. A. 2d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 80.

No. 18–6388. BLACKMON *v.* EATON CORP. C. A. 6th Cir. Certiorari denied.

No. 18–6390. WHITE *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–6392. KHOSHMOOD *v.* EASTERN MARKET MANAGEMENT (two judgments). C. A. D. C. Cir. Certiorari denied. Reported below: 728 Fed. Appx. 1 (both judgments).

No. 18–6402. ROBINSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–6403. STARNES *v.* JACKSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6407. VUE *v.* HENKE ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 746 Fed. Appx. 780.

No. 18–6412. BEY *v.* ELMWOOD PLACE POLICE DEPARTMENT ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6418. WILSON *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 251 So. 3d 904.

No. 18–6419. WHIPPLE *v.* FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–6420. NESSELRODE *v.* DEVOS, SECRETARY OF EDUCATION. C. A. 6th Cir. Certiorari denied.

No. 18–6426. BRUNSON *v.* NORTH CAROLINA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 203.

No. 18–6427. VALLE *v.* ROGERS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 309.

No. 18–6428. GONZALEZ DELACRUZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6433. SMITHBACK *v.* TEXAS. Ct. App. Tex., 9th Dist. Certiorari denied.

No. 18–6435. ROGERS *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6437. HOLDER *v.* SEPANEK, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 698 Fed. Appx. 216.

No. 18–6438. MORENO *v.* BUTLER. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 18–6439. ORTEGA LARA *v.* MADDEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6440. MEEKS *v.* TENNESSEE DEPARTMENT OF CORRECTION ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6441. MCKISSICK *v.* DEAL, GOVERNOR OF GEORGIA, ET AL. Sup. Ct. Ga. Certiorari denied.

No. 18–6442. MERRITT *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2017 IL App (2d) 150219, 83 N. E. 3d 1125.

No. 18–6443. ADAMS *v.* NETFLIX, INC. C. A. 2d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 76.

No. 18–6446. FAIRLEY *v.* PM MANAGEMENT-SAN ANTONIO AL, L. L. C., DBA LAKESIDE ASSISTED LIVING BY TRISUN HEALTHCARE. C. A. 5th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 343.

No. 18–6452. BARTLETT *v.* STATE BAR OF CALIFORNIA ET AL. Sup. Ct. Cal. Certiorari denied.

No. 18–6454. NASH *v.* PHILLIPS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6455. MCGEE *v.* BONDI, ATTORNEY GENERAL OF FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 704 Fed. Appx. 920.

No. 18–6458. WILLIAMS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6465. YANEZ *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 18–6466. ORTEGA *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 732 Fed. Appx. 617.

No. 18–6467. PULLEY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–6469. MORANT *v.* LEWIS, SUPERINTENDENT, SOUTHEAST CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6476. WHITE *v.* DETROIT EAST COMMUNITY MENTAL HEALTH ET AL. Ct. App. Mich. Certiorari denied.

No. 18–6477. ACKELS *v.* OLSEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 713 Fed. Appx. 665.

No. 18–6485. CAIN *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 2 Wash. App. 2d 1054.

No. 18–6487. HOWELL *v.* NUCAR CONNECTION, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 416.

No. 18–6488. COLEMAN *v.* HAKALA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 608.

No. 18–6489. FIKROU *v.* MONTGOMERY COUNTY OFFICE OF CHILD SUPPORT ENFORCEMENT DIVISION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 695 Fed. Appx. 299.

No. 18–6490. HOPKINS *v.* LANGUAGE TESTING INTERNATIONAL ET AL. C. A. 2d Cir. Certiorari denied.

No. 18–6492. RENTAS *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–6493. BURKE *v.* TURNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6501. ROBERTSON *v.* INTERACTIVE COLLEGE OF TECHNOLOGY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 743 Fed. Appx. 269.

No. 18–6506. BOUDREAUX *v.* HOOPER, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6507. BROWN *v.* DEL NORTE COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6508. WILLIAMS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 18–6509. TEDESCO *v.* MONROE COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 723 Fed. Appx. 125.

No. 18–6510. PRUITT *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 32 N. Y. 3d 1007, 111 N. E. 3d 1121.

No. 18–6513. CHINCHILLA *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 443.

No. 18–6516. Linh Thi Minh Tran *v.* Happy Valley Municipal Court, Oregon. Ct. App. Ore. Certiorari denied. Reported below: 289 Ore. App. 377, 412 P. 3d 1210.

No. 18–6517. Brown *v.* Elite Modeling Agency. C. A. 11th Cir. Certiorari denied.

No. 18–6520. Arnett *v.* Covello, Acting Warden. C. A. 9th Cir. Certiorari denied.

No. 18–6521. Porto *v.* City of Laguna Beach, California, et al. C. A. 9th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 853.

No. 18–6522. Prunty *v.* DeSoto County School Board et al. C. A. 11th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 648.

No. 18–6527. Jedediah C. *v.* West Virginia. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 240 W. Va. 534, 814 S. E. 2d 197.

No. 18–6528. Cabbagestalk *v.* Sterling et al. C. A. 4th Cir. Certiorari denied.

No. 18–6529. Kozich *v.* Deibert et al. C. A. 11th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 644.

No. 18–6532. Myers *v.* Ohio. Sup. Ct. Ohio. Certiorari denied. Reported below: 154 Ohio St. 3d 405, 2018-Ohio-1903, 114 N. E. 3d 1138.

No. 18–6535. Williams *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 18–6538. Sydnor *v.* Hampton, Warden. C. A. 6th Cir. Certiorari denied.

No. 18–6539. Rencountre *v.* Braun, Warden. C. A. 8th Cir. Certiorari denied.

No. 18–6540. Rayan *v.* Georgia. Ct. App. Ga. Certiorari denied.

No. 18–6541. Stoller *v.* Wilmington Trust. C. A. 7th Cir. Certiorari denied.

No. 18–6543. Koresko *v.* Acosta, Secretary of Labor. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 127.

No. 18–6544. McNemar *v.* Terry, Acting Warden. C. A. 4th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 207.

No. 18–6545. Lopez *v.* California. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 18–6555. Barnett *v.* City of Gastonia, North Carolina. C. A. 4th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 111.

No. 18–6556. McAlister *v.* Wisconsin. Sup. Ct. Wis. Certiorari denied. Reported below: 2018 WI 34, 380 Wis. 2d 684, 911 N. W. 2d 77.

No. 18–6558. Merrick *v.* Arizona. Ct. App. Ariz. Certiorari denied.

No. 18–6562. Pierce *v.* Georgia. Sup. Ct. Ga. Certiorari denied.

No. 18–6568. Pompee *v.* Jones, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 819.

No. 18–6571. Jervis *v.* Brown, Warden. C. A. 7th Cir. Certiorari denied.

No. 18–6572. Thompson *v.* Missouri Board of Probation and Parole. C. A. 8th Cir. Certiorari denied.

No. 18–6575. Stokes *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 18–6577. Solano Godoy *v.* Clarke, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied. Reported below: 689 Fed. Appx. 164.

No. 18–6578. Fox *v.* Illinois. Sup. Ct. Ill. Certiorari denied.

No. 18–6580. Fitts *v.* Goodrich, Warden, et al. Sup. Ct. Ga. Certiorari denied.

No. 18–6590. Mohamed *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 221.

No. 18–6592. PAVON *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 978.

No. 18–6594. SAFFORD *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 252 So. 3d 163.

No. 18–6595. SMITH *v.* FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–6603. JOHNSON *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 102 N. E. 3d 355.

No. 18–6607. PETERS *v.* BALDWIN. C. A. 7th Cir. Certiorari denied.

No. 18–6609. LAMPON-PAZ *v.* OFFICE OF PERSONNEL MANAGEMENT. C. A. 3d Cir. Certiorari denied. Reported below: 732 Fed. Appx. 158.

No. 18–6610. JOHNSON *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied.

No. 18–6613. DEJESUS *v.* GODINEZ ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 766.

No. 18–6614. ROSE *v.* HORTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6619. ROBINSON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 247 So. 3d 1212.

No. 18–6620. ARMENTA *v.* DIAZ, ACTING SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 255.

No. 18–6623. COSME *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–6627. CURRY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 18–6628. CLEMONS *v.* KASICH, GOVERNOR OF OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 153 Ohio St. 3d 1449, 2018-Ohio-3025, 103 N. E. 3d 828.

No. 18–6629. HARLOFF *v.* KOENIG, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 170.

No. 18–6637. GRIST *v.* CARLIN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6639. DIZAK *v.* SMITH, SUPERINTENDENT, MID-STATE CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 18–6642. IBEABUCHI *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 18–6647. SHARMA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6652. LOWE *v.* ROY, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. Ct. App. Minn. Certiorari denied.

No. 18–6653. CALDERIN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 150730–U.

No. 18–6659. RODWELL *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 18–6660. ARIF *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 897 F. 3d 1.

No. 18–6661. SAMUEL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 117.

No. 18–6664. GARZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 258.

No. 18–6665. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6666. SOSA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 897 F. 3d 615.

No. 18–6673. VICK *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6676. WILMORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6677. MARSHALL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6678. WHITE *v.* BRACY, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6681. RIOS ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 904 F. 3d 854.

No. 18–6683. SAKOMAN *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 18–6687. KENNEDY *v.* POLLOCK. Sup. Ct. N. J. Certiorari denied. Reported below: 233 N. J. 604, 187 A. 3d 844.

No. 18–6689. SANCHEZ *v.* PFEIFFER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 745 Fed. Appx. 703.

No. 18–6691. MCCURTIS *v.* BURKE, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 18–6692. WATERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 749 Fed. Appx. 823.

No. 18–6693. MANGUAL-ROSADO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 907 F. 3d 107.

No. 18–6694. WEAKLEY *v.* EAGLE LOGISTICS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 894 F. 3d 1244.

No. 18–6695. MEHMOOD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 928.

No. 18–6697. BELLINGER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 731.

No. 18–6700. DEPIETRO *v.* ALLSTATE INSURANCE CO. ET AL. Super. Ct. N. J., App. Div. Certiorari denied.

No. 18–6703. TRIMBLE *v.* VANNOY, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 482.

No. 18–6705. JILES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 1005.

No. 18–6707. PROA-DOMINGUEZ *v.* UNITED STATES (Reported below: 739 Fed. Appx. 309); LOPEZ *v.* UNITED STATES (740 Fed. Appx. 422); and CAZARES *v.* UNITED STATES (740 Fed. Appx. 456). C. A. 5th Cir. Certiorari denied.

No. 18–6711. DELEON COLON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 899 F. 3d 1236.

No. 18–6712. GILSTRAP *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 312.

No. 18–6714. SUAREZ PLASENCIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 886 F. 3d 1336.

No. 18–6718. EDWARDS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–6719. WILLIAMSON *v.* LUTHER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–6720. WITCHARD *v.* ANTONELLI, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 54.

No. 18–6721. CULLENS *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6723. NOEL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6725. BUSSELL *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 18–6726. BRANTLEY *v.* INDIANA. Sup. Ct. Ind. Certiorari denied. Reported below: 91 N. E. 3d 566.

No. 18–6729. SANTIAGO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 739 Fed. Appx. 693.

No. 18–6732. STEVENS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 943.

No. 18–6733. SHAUGER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6737. LOPEZ-CASTILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 363.

No. 18–6738. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6742. MATHIS *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 258 N. C. App. 651, 813 S. E. 2d 861.

No. 18–6746. HAYMORE ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 421.

No. 18–6748. GLASS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 904 F. 3d 319.

No. 18–6753. MENDEZ *v.* SWARTHOUT, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 421.

No. 18–6757. NORMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 208.

No. 18–6759. BROWN *v.* HATTON, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 889 F. 3d 661.

No. 18–6760. UPSHAW *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 538.

No. 18–6761. WILLIAMS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6763. ANTONIO BONILLA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–6764. BORDERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6765. BAGDIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–6767. GALBREATH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 348.

No. 18–6768. PEREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6770. NINO-FLORES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 152.

No. 18–6775. KEHOE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 893 F. 3d 232.

No. 18–6778. HORN *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 18–6791. BLAND *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 194.

No. 18–6793. BOOTH *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied. Reported below: 882 F. 3d 759.

No. 18–6795. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6797. GREENE *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 423 S. C. 263, 814 S. E. 2d 496.

No. 18–6798. HILL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 890 F. 3d 51.

No. 18–6800. POWELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 311.

No. 18–6801. MCDUFFY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 890 F. 3d 796.

No. 18–6804. ROACH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 896 F. 3d 1185.

No. 18–6806. SARMIENTO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 739 Fed. Appx. 704.

No. 18–6808. SUAREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 893 F. 3d 1330.

No. 18–6809. CAMP *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 903 F. 3d 594.

No. 18–6810. HICKMAN-SMITH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6811. RIVERA FONSECA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 727 Fed. Appx. 985.

No. 18–6812. FERRANTI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 18–6814. GERALD ET AL. *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied. Reported below: 295 Va. 469, 813 S. E. 2d 722.

No. 18–6816. GARCIA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–6817. FOCIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 869 F. 3d 1269.

No. 18–6820. LANGLEY *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. Ct. App. Ore. Certiorari denied. Reported below: 288 Ore. App. 168, 403 P. 3d 832.

No. 18–6821. KELLEY *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 279 So. 3d 14.

No. 18–6824. KEYS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 747 Fed. Appx. 198.

No. 18–6827. WILLIAMS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 162 App. Div. 3d 694, 78 N. Y. S. 3d 386.

No. 18–6828. THOMAS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 237 Md. App. 760.

No. 18–6829. FUENTES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 161.

No. 18–6830. HEREDIA-SILVA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 344.

No. 18–6833. RAMON ZUNIGA, AKA ZUNIGA-ZARAGOZA, AKA ZUNIGA-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 147.

No. 18–6838. ROUNDTREE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6839. ROBIN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 179 A. 3d 867.

No. 18–6841. STEWART *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied.

No. 18–6842. DAVIS, AKA SEALED DEFENDANT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 715 Fed. Appx. 107.

No. 18–6844. KERR *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2018 WI 87, 383 Wis. 2d 306, 913 N. W. 2d 787.

No. 18–6846. PENA *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 236 Md. App. 740.

No. 18–6847. ANTONIO HARO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 727.

No. 18–6851. GOMEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6853. GARCIA-LIMA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 374.

No. 18–6855. PEREZ-MARTINEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 746 Fed. Appx. 468.

No. 18–6856. MILLS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6858. PRITCHETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 128.

No. 18–6861. WILBORN *v.* RYAN, WARDEN. C. A. 1st Cir. Certiorari denied.

No. 18–6862. THOMAS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 897 F. 3d 807.

No. 18–6863. LEWIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 895 F. 3d 1004.

No. 18–6864. WHITLOW *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–6865. NINA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 734 Fed. Appx. 27.

No. 18–6867. SILVA-IBARRA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 858.

No. 18–6871. CABELLO *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON. C. A. 9th Cir. Certiorari denied.

No. 18–6873. ARMENTA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 883 F. 3d 1005.

No. 18–6875. THRIFT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 607.

No. 18–6879. HOGUE *v.* CAIN, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 426.

No. 18–6894. CROSBY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 752.

No. 18–6895. CLARK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 906 F. 3d 667.

No. 18–6896. WINGATE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6897. TAVIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 697.

No. 18–6900. WATTERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 324.

No. 18–6910. MUSA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 265.

No. 18–6911. PINEDA-OROZCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 739 Fed. Appx. 311.

No. 18–6912. MONIE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 18–6917. PORTELA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 901 F. 3d 1322.

No. 18–6918. VELAZQUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 462.

No. 18–6920. RETIZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 500.

No. 18–6923. SARRAS *v.* UNKNOWN PARTY. C. A. 9th Cir. Certiorari denied.

No. 18–6924. WALDEN *v.* KELLEY, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 18–6926. VALENTINE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6934. EVANS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 64.

No. 18–6935. EWING *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 749 Fed. Appx. 317.

No. 18–6937. MORRILL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 730 Fed. Appx. 884.

No. 18–6948. GAVIDIA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 908 F. 3d 920.

No. 18–6951. COOPER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 893 F. 3d 840.

No. 18–6952. GARCIA LICON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 18–6963. CAMRAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 263.

No. 18–6964. WALLACE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 18–6967. DANILOVICH, AKA SEALED DEFENDANT, AKA DANIELS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 45.

No. 18–6969. BIVINS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 747 Fed. Appx. 765.

No. 18–6974. MCINTOSH *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 18–6981. SURRATT *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 259 N. C. App. 940, 814 S. E. 2d 626.

No. 18–7028. SIMPSON *v.* ERKERD ET AL. C. A. 3d Cir. Certiorari denied.

No. 17–938. CITY OF CIBOLO, TEXAS *v.* GREEN VALLEY SPECIAL UTILITY DISTRICT. C. A. 5th Cir. Motion of Guadalupe Valley Development Corporation et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 866 F. 3d 339.

No. 17–1165. DE CSEPEL ET AL. *v.* REPUBLIC OF HUNGARY ET AL. C. A. D. C. Cir. Motions of Ambassador Stuart E. Eizenstat and AJC et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of these motions and this petition. Reported below: 859 F. 3d 1094.

No. 17–1237. OSAGE WIND, LLC, ET AL. *v.* OSAGE MINERALS COUNCIL. C. A. 10th Cir. Motions of American Wind Energy Association and Osage County Farm Bureau, Inc., et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 871 F. 3d 1078.

No. 17–1382. LANCE *v.* SELLERS, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 706 Fed. Appx. 565.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG and JUSTICE KAGAN join, dissenting.

Before deciding that petitioner Donnie Cleveland Lance should die as punishment for two murders he committed, a jury heard no evidence whatsoever to counterbalance the State's case for the death penalty. Lance's counsel bore responsibility for the one-sidedness of the sentencing proceedings; he inexcusably failed even to look into, much less to put on, a case for sparing Lance's life. And we have since learned that Lance suffers from significant cognitive impairments that the jury could have weighed in assessing his moral culpability. In other words, there is a meaningful case to be made for sparing Lance's life, but—because he lacked access to constitutionally adequate counsel—he has never had a chance to present it.

The Georgia Supreme Court concluded that this state of affairs was constitutionally tolerable because, in its view, Lance's untold story stood no chance of persuading even a single juror to favor life without parole over a death sentence. The U. S. Court of Appeals for the Eleventh Circuit held that its conclusion was not unreasonable. I cannot agree. Our precedents clearly establish that Lance was prejudiced by his inability to inform the jury about his impairments. I therefore would grant Lance's petition for review and summarily reverse.

I

A

The facts of Lance's crimes—murdering his ex-wife, Sabrina "Joy" Lance, and her boyfriend, Dwight "Butch" Wood, Jr., in 1997—admittedly inspire little sympathy. Lance went to Butch's home, kicked in the front door, shot Butch with a shotgun, then bludgeoned Joy to death with the gun. According to a fellow inmate, he later bragged about the killings. Lance also had an extensive prior history of domestic violence against Joy.[1]

[1] Lance previously had kidnapped Joy, electrocuted her, beaten her, strangled her, and threatened her with various other harms. He also repeatedly had threatened to kill her if she left him or became involved with Butch. Four years earlier, Lance and a friend took a shotgun to Butch's home and kicked in the door, but fled when a child inside spoke to them.

Due to his counsel's ineffectiveness, however, those facts were all the jurors ever learned about Lance; they heard no evidence why his life was worth sparing. Lance was represented during both the guilt and penalty phases of his trial by a solo practitioner who became convinced of Lance's innocence—and his own ability to prove it—early in the representation. He thus prepared exclusively for the guilt-or-innocence phase of the trial. Counsel did not even broach the subject of possible penalty-phase evidence with Lance or his family, because he did not want them "thinking that [he] might be thinking in terms of losing the case." App. to Pet. for Cert. 232. So when the jury found Lance guilty and the question became whether Lance should be put to death,[2] Lance's counsel had no evidence whatsoever to present.

The State did. It called six witnesses, including the victims' relatives, to explain why Lance deserved to die. The State's closing argument emphasized Lance's history of violence against Joy, the brutality of her killing, and Lance's apparent lack of remorse. The State urged the jury to perceive Lance as "'cold and calculating'" and repeatedly asked "'what kind of person'" would do these things. 1 App. in No. 16–15008 (CA11), pt. 1, pp. 68, 75, 77. Lance's counsel, by contrast, made no opening statement and presented no mitigating evidence. By his own admission, he "had nothing to put on." App. to Pet. for Cert. 273. His closing argument merely urged the jury to consider Lance's family and to resist the temptation to exact vengeance. About Lance, counsel said only that he was "'kind of a quiet person and a country boy'" who "'doesn't talk a lot.'" 1 App. in No. 16–15008, pt. 1, at 85.

The jury sentenced Lance to death.

B

In 2003, Lance filed a petition for postconviction relief in state court, asserting that his trial counsel's failure to investigate or present any mitigating evidence was ineffective assistance of counsel. Essentially, he argued that there was a meaningful case to be made for sparing his life, and that his counsel had forfeited his chance to do so through inattention.

[2] The jury found that two aggravating circumstances supported Lance's eligibility for the death penalty: that he committed a double murder and that Joy's killing was "outrageously or wantonly vile, horrible, or inhuman." App. to Pet. for Cert. 74; *Lance* v. *State*, 275 Ga. 11, 23, 560 S. E. 2d 663, 677 (2002); see also Ga. Code Ann. §§ 17–10–30(b)(2), (b)(7) (Supp. 2018).

The evidence showed that counsel could have found possible cognitive problems had he looked into Lance's personal history. That history included repeated serious head traumas caused by multiple car crashes, alcoholism, and—most seriously—Lance's once being shot in the head by unknown assailants while lying on his couch.[3] In the aftermath of the shooting, Lance had "terrible headaches," "dizziness," "difficulty working," and "became even more quiet than he had before." App. to Pet. for Cert. 171–172. The court found that any reasonable defense attorney would have had Lance's mental health evaluated and, in so doing, uncovered "significant mitigating evidence for the jury to consider." *Id.*, at 174.

Four mental health professionals testified at an evidentiary hearing.[4] They agreed on many points. First, Lance had permanent damage to his brain's frontal lobe. Second, his IQ placed him in the borderline range for intellectual disability. Third, his symptoms warranted a diagnosis of clinical dementia. The experts differed somewhat, however, over the extent and practical consequences of Lance's brain damage. Primarily, the experts seemed to disagree about the extent to which Lance's brain damage affected his impulse control.[5]

The Superior Court granted Lance's habeas petition and vacated his death sentence, holding that trial counsel's failure to

---

[3] In addition to the history discussed by the court, Lance also ingested gasoline as a small child, was trampled by a horse as a teenager, and once was overcome by fumes while working to clean the interior of an oil tanker truck. 1 App. in No. 16–15008, pt. 2, pp. 202–203.

[4] Lance put on Thomas Hyde, an expert in behavioral neurology; Ricardo Weinstein, an expert in neuropsychology; and David Pickar, an expert in psychiatry and clinical neuroscience. The State called Daniel Martell, an expert in neuropsychology. (A fifth expert's unsworn report was ruled inadmissible by the Georgia Supreme Court. See *Hall* v. *Lance*, 286 Ga. 365, 371, n. 1, 687 S. E. 2d 809, 815, n. 1 (2010).)

[5] Hyde, Weinstein, and Pickar opined that the type and extent of damage reflected in Lance's test results would adversely affect his ability to suppress impulsive behavior. Weinstein and Hyde added that the damage could impair Lance's ability to conform his conduct to the law, and Hyde noted that the effects of Lance's impairments would be most acute in moments of emotional stress. Martell, in contrast, saw no direct evidence of impulse-control difficulties and opined that Lance's brain damage would not "'prevent him'" from conforming his conduct to the law. 1 App. in No. 16–15008, pt. 3, at 170.

investigate and present evidence of Lance's mental condition was deficient performance, and that his failure prejudiced Lance. The missing evidence could have prompted a different sentence, the court explained, because it went directly to the key issue before the jury: the assessment of Lance's character, culpability, and worth.

The Georgia Supreme Court, however, reversed and reinstated Lance's death sentence. *Hall* v. *Lance*, 286 Ga. 365, 687 S. E. 2d 809 (2010). It agreed that counsel's performance was deficient but held that Lance suffered no prejudice. As relevant here, it held that even if the jury had considered at trial all the neuropsychological evidence adduced at the postconviction hearing, there was no reasonable probability that Lance's sentence would have changed.[6] In the Georgia Supreme Court's view, the new evidence was only "somewhat mitigating" because it showed only "subtle neurological impairments," which would necessarily have been outweighed by Lance's prior threats and violence toward the victims, the nature of the crime, and Lance's statements and demeanor in its aftermath. *Id.*, at 373, 687 S. E. 2d, at 815–816.

C

Lance sought a federal writ of habeas corpus. The U. S. District Court for the Northern District of Georgia denied the petition but granted a certificate of appealability. Under the deferential review provisions of the Antiterrorism and Effective Death Penalty Act of 1996, 28 U. S. C. § 2254(d), the U. S. Court of Appeals for the Eleventh Circuit affirmed, holding that the Georgia Supreme Court's conclusion that the absence of the postconviction mental health evidence caused Lance no prejudice "was not unreasonable." *Lance* v. *Warden*, 706 Fed. Appx. 565, 573 (2017).

II

To prevail on a Sixth Amendment ineffective-assistance-of-counsel claim, a defendant must show both that his counsel's performance was deficient and that his counsel's errors caused him

[6] As an alternative ground for finding no prejudice, the Georgia Supreme Court also hypothesized that even an adequate investigation would not have uncovered the evidence that Lance presented at the postconviction hearing. That conclusion is not implicated by Lance's petition because the Court of Appeals did not address it.

prejudice. In assessing deficiency, a court asks whether defense "counsel's representation fell below an objective standard of reasonableness." *Strickland* v. *Washington*, 466 U. S. 668, 688 (1984). To establish prejudice, a defendant must show "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.*, at 694. When, as here, a petitioner seeks federal habeas review of a state court's rejection of his ineffective-assistance-of-counsel claim, he can prevail only if the decision was "contrary to, or involved an unreasonable application of," *Strickland* and its progeny, or rested "on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U. S. C. § 2254(d).

Because the Supreme Court of Georgia mischaracterized or omitted key facts and improperly weighed the evidence, I agree with Lance that its decision was an objectively "unreasonable application of" our precedents. § 2254(d)(1); see *Wiggins* v. *Smith*, 539 U. S. 510, 528 (2003). I would therefore grant the petition and summarily reverse.

A

With regard to *Strickland*'s performance prong, the Georgia Supreme Court determined that trial counsel's failure to investigate possible mitigation was deficient. See *Lance*, 286 Ga., at 368, 687 S. E. 2d, at 812–813. That is plainly correct. Counsel in a death penalty case has an obligation at the very least to consider possible penalty-phase defenses. See *Wiggins*, 539 U. S., at 521–522. By his own admission, counsel here did not. Without any inquiry into what penalty-phase evidence he might be forgoing, he succumbed to tunnel vision—and as a consequence left Lance defenseless. Because nothing here "obviate[d] the need for defense counsel to conduct *some* sort of mitigation investigation," Lance has satisfied *Strickland*'s deficient-performance requirement. *Porter* v. *McCollum*, 558 U. S. 30, 40 (2009) (*per curiam*); see also *Rompilla* v. *Beard*, 545 U. S. 374, 381 (2005); *Wiggins*, 539 U. S., at 534.

B

Turning to the prejudice prong, the Court of Appeals was wrong to conclude that Lance suffered no clearly established prejudice from his inability to make his case. Georgia law permits a death sentence only upon a unanimous jury recommendation, so

Lance needed only to show "a reasonable probability that at least one juror would have struck a different balance" between the aggravating and the mitigating factors had he or she considered the missing evidence. *Wiggins*, 539 U. S., at 537; see Ga. Code Ann. §§17–10–31(a), (c).[7] The trial court, upon hearing Lance's proffered mitigation evidence, concluded that it was "extremely important for the jury to consider" and thus that its absence was prejudicial. App. to Pet. for Cert. 174. Under any reasonable application of *Strickland* and its progeny, that conclusion was correct. See 28 U. S. C. §2254(d); *Wiggins*, 539 U. S., at 528.

To determine whether a defendant reasonably might have been spared a death sentence but for his counsel's deficiency, courts take into account "the totality of the available mitigation evidence—both that adduced at trial, and the evidence adduced in the habeas proceeding," then "reweig[h] it against the evidence in aggravation." *Williams* v. *Taylor*, 529 U. S. 362, 397–398 (2000). "We do not require a defendant to show that counsel's deficient conduct more likely than not altered the outcome of his penalty proceeding, but rather that he establish a probability sufficient to undermine confidence in that outcome." *Porter*, 558 U. S., at 44 (internal quotation marks and alteration omitted).

The jurors who sentenced Lance determined whether he would live or die "knowing hardly anything about him other than the facts of his crimes." *Id.*, at 33. They heard nothing "that would humanize [Lance] or allow them to accurately gauge his moral culpability." *Id.*, at 41. Yet if counsel had performed his duties, the jurors would have heard that Lance's brain endured physical trauma throughout his life, resulting in frontal lobe damage and dementia. The jury further would have heard that Lance's IQ placed him within the borderline range for intellectual disability. The jury also would have heard that Lance's cognitive deficits could affect his impulse control and capacity to conform his behavior to the law, especially at moments of emotional distress. Taken together, those facts—with their accompanying explanatory potential to humanize Lance, or at least to render less incompre-

[7] In Georgia, "a sentence of death shall not be imposed unless the jury verdict includes a finding of at least one statutory aggravating circumstance and a recommendation that such sentence be imposed." Ga. Code Ann. §17–10–31(a). "If the jury is unable to reach a unanimous verdict as to sentence, the judge shall dismiss the jury and shall impose a sentence of either life imprisonment or imprisonment for life without parole." §17–10–31(c).

hensible his conduct—were significant mitigating evidence. See *id.*, at 36, 42–43 (noting the potentially mitigating effect of evidence that the defendant "suffered from brain damage that could manifest in impulsive, violent behavior" and was "substantially impaired in his ability to conform his conduct to the law").

To be sure, the evidence before the jury—the brutality of Joy's death, Lance's past violence toward her, and Lance's conduct thereafter—could have supported a death sentence. See Ga. Code Ann. §§ 17–10–30(b), 17–10–31(a). But there is a stark contrast between no mitigation evidence whatsoever and the significant neuropsychological evidence that adequate counsel could have introduced as a potential counterweight. Lance's unintroduced case for leniency, even if not airtight, "adds up to a mitigation case that bears no relation to the few naked pleas for mercy actually put before the jury." *Rompilla*, 545 U. S., at 393; see also *Williams*, 529 U. S., at 398. Our precedents thus clearly establish Lance's right to a new sentencing at which a jury can, for the first time, weigh the evidence both for and against death.

The Georgia Supreme Court reached its contrary conclusion only by unreasonably disregarding or minimizing Lance's evidence. The state court acknowledged that experts would testify that "'significant damage'" to Lance's frontal lobe compromised his ability "'to conform his conduct to the requirements of the law.'" *Lance*, 286 Ga., at 370–371, 687 S. E. 2d, at 814. It failed, however, to allow for the possibility that the jury might credit that evidence. This Court previously has cautioned against prematurely resolving disputes or unreasonably discounting mitigating evidence in this context. See *Porter*, 558 U. S., at 43 ("While the State's experts identified perceived problems with the tests [showing brain damage and cognitive defects] and the conclusions [the defense expert] drew from them, it was not reasonable to discount entirely the effect that [the defense expert's] testimony might have had on the jury"). We should do so again here.

Further, the Georgia Supreme Court relied on characterizations of Lance's evidence that cannot be squared with the record, which "further highlights the unreasonableness of" the Georgia Supreme Court's decision. *Wiggins*, 539 U. S., at 528; see 28 U. S. C. § 2254(d)(2). With regard to Lance's frontal lobe damage, the Georgia Supreme Court appears to have credited the testimony of the State's expert over Lance's experts' testimony, treating as definitive Martell's assertion that "Lance's symptoms were so sub-

tle that a typical court-ordered evaluation might not have given any indication of problems." *Lance*, 286 Ga., at 372, 687 S. E. 2d, at 815; see also *id.*, at 373, 687 S. E. 2d, at 816. Yet the other experts concluded that Lance's impairments and resulting behavioral distortions were "serious" and "significant."[8] *E. g.*, 1 App. in No. 16–15008, pt. 3, at 92; 2 *id.*, at 10. The Georgia Supreme Court also unreasonably dismissed the experts' consensus that Lance was in the borderline range for intellectual disability,[9] and never mentioned—much less discussed the significance of—Lance's dementia diagnosis.

These errors, taken together, make clear that the Georgia Supreme Court applied our *Strickland* precedents in an objectively unreasonable manner. The mental impairment evidence reasonably could have affected at least one juror's assessment of whether Lance deserved to die for his crimes, and Lance should have been given a chance to make the case for his life. The Georgia Supreme Court's conclusion that it would be futile to allow him to do so was unreasonable.

III

Absent this Court's intervention, Lance may well be executed without any adequately informed jury having decided his fate. Because the Court's refusal to intervene permits an egregious breakdown of basic procedural safeguards to go unremedied, I respectfully dissent.

No. 17–9082. HESTER ET AL. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 708 Fed. Appx. 441.

---

[8] Moreover, it is unclear even that Martell's milder characterizations genuinely contradicted the other experts' testimony. Unlike the other experts, Martell seems at least sometimes to have been characterizing Lance's impairments "relative to his overall borderline [intellectually disabled] baseline," 1 App. in No. 16–15008, pt. 3, at 151, not relative to the average person or to the level at which Lance might have functioned absent his head traumas. Compare 2 *id.*, at 34 (Weinstein: specific test results "vastly excee[d] the threshold for impairment" and "indicate significant organic impairment of the frontal lobe"), with 2 *id.*, at 152 (Martell: results on the same test were "at a level expected for [Lance's] IQ" or "showed mild impairment").

[9] See *Lance*, 286 Ga., at 372, 687 S. E. 2d, at 815 (describing Lance as merely "in the lower range of normal intelligence"). But see, *e. g.*, 1 App. in No. 16–15008, pt. 3, at 135 (Martell, describing Lance's intellectual functioning as "in the borderline range," which is "lower than low average").

JUSTICE ALITO, concurring.

The argument that the Sixth Amendment, as originally understood, requires a jury to find the facts supporting an order of restitution depends upon the proposition that the Sixth Amendment requires a jury to find the facts on which a sentence of imprisonment is based. That latter proposition is supported by decisions of this Court, see *United States* v. *Booker*, 543 U. S. 220, 230–232 (2005); *Apprendi* v. *New Jersey*, 530 U. S. 466, 478 (2000), but it represents a questionable interpretation of the original meaning of the Sixth Amendment, *Gall* v. *United States*, 552 U. S. 38, 64–66 (2007) (ALITO, J., dissenting). Unless the Court is willing to reconsider that interpretation, fidelity to original meaning counsels against further extension of these suspect precedents.

JUSTICE GORSUCH, with whom JUSTICE SOTOMAYOR joins, dissenting.

If you're charged with a crime, the Sixth Amendment guarantees you the right to a jury trial. From this, it follows that the prosecutor must prove to a jury all of the facts legally necessary to support your term of incarceration. *Apprendi* v. *New Jersey*, 530 U. S. 466 (2000). Neither is this rule limited to prison time. If a court orders you to pay a fine to the government, a jury must also find all the facts necessary to justify that punishment too. *Southern Union Co.* v. *United States*, 567 U. S. 343 (2012).

But what if instead the court orders you to pay restitution to victims? Must a jury find all the facts needed to justify a restitution order as well? That's the question presented in this case. After the defendants pleaded guilty to certain financial crimes, the district court held a hearing to determine their victims' losses. In the end and based on its own factual findings, the court ordered the defendants to pay $329,767 in restitution. The Ninth Circuit affirmed, agreeing with the government that the facts supporting a restitution order can be found by a judge rather than a jury.

Respectfully, I believe this case is worthy of our review. Restitution plays an increasing role in federal criminal sentencing today. Before the passage of the Victim and Witness Protection Act of 1982, 96 Stat. 1248, and the Mandatory Victims Restitution Act of 1996, 110 Stat. 1227, restitution orders were comparatively rare. But from 2014 to 2016 alone, federal courts sentenced 33,158 defendants to pay $33.9 billion in restitution. GAO, G. Goodwin, Federal Criminal Restitution 16 (GAO–18–203, 2018).

And between 1996 and 2016, the amount of unpaid federal criminal restitution rose from less than $6 billion to more than $110 billion. GAO, G. Goodwin, Federal Criminal Restitution 14 (GAO–18–115, 2017); Dept. of Justice, C. DiBattiste, U. S. Attorneys Annual Statistical Report 79–80 (1996) (Tables 12A and 12B). The effects of restitution orders, too, can be profound. Failure or inability to pay restitution can result in suspension of the right to vote, continued court supervision, or even reincarceration. Lollar, What Is Criminal Restitution? 100 Iowa L. Rev. 93, 123–129 (2014).

The ruling before us is not only important, it seems doubtful. The Ninth Circuit itself has conceded that allowing judges, rather than juries, to decide the facts necessary to support restitution orders isn't "well-harmonized" with this Court's Sixth Amendment decisions. *United States* v. *Green*, 722 F. 3d 1146, 1151 (2013). Judges in other circuits have made the same point in similar cases. See *United States* v. *Leahy*, 438 F. 3d 328, 343–344 (CA3 2006) (en banc) (McKee, J., concurring in part and dissenting in part); *United States* v. *Carruth*, 418 F. 3d 900, 905–906 (CA8 2005) (Bye, J., dissenting).

Nor does the government's defense of the judgment below dispel these concerns. This Court has held that the Sixth Amendment requires a jury to find any fact that triggers an increase in a defendant's "statutory maximum" sentence. *Apprendi*, 530 U. S., at 490. Seizing on this language, the government argues that the Sixth Amendment doesn't apply to restitution orders because the amount of restitution is dictated only by the extent of the victim's loss and thus has no "statutory maximum." But the government's argument misunderstands the teaching of our cases. We've used the term "statutory maximum" to refer to the harshest sentence the law allows a court to impose based on facts a jury has found or the defendant has admitted. *Blakely* v. *Washington*, 542 U. S. 296, 303 (2004). In that sense, the statutory maximum for restitution is usually *zero*, because a court can't award *any* restitution without finding additional facts about the victim's loss. And just as a jury must find any facts necessary to authorize a steeper prison sentence or fine, it would seem to follow that a jury must find any facts necessary to support a (nonzero) restitution order.

The government is not without a backup argument, but it appears to bear problems of its own. The government suggests

that the Sixth Amendment doesn't apply to restitution orders because restitution isn't a criminal penalty, only a civil remedy that "compensates victims for [their] economic losses." Brief in Opposition 8 (internal quotation marks omitted). But the Sixth Amendment's jury trial right expressly applies "[i]n all criminal prosecutions," and the government concedes that "restitution is imposed as part of a defendant's criminal conviction." Brief in Opposition 8. Federal statutes, too, describe restitution as a "penalty" imposed on the defendant as part of his criminal sentence, as do our cases. 18 U. S. C. §§ 3663(a)(1)(A), 3663A(a)(1), 3572(d)(1); see *Paroline* v. *United States*, 572 U. S. 434, 456 (2014); *Pasquantino* v. *United States*, 544 U. S. 349, 365 (2005). Besides, if restitution really fell beyond the reach of the Sixth Amendment's protections in *criminal* prosecutions, we would then have to consider the Seventh Amendment and its independent protection of the right to a jury trial in *civil* cases.

If the government's arguments appear less than convincing, maybe it's because they're difficult to reconcile with the Constitution's original meaning. The Sixth Amendment was understood as preserving the "'historical role of the jury at common law.'" *Southern Union*, 567 U. S., at 353. And as long ago as the time of Henry VIII, an English statute entitling victims to the restitution of stolen goods allowed courts to order the return only of those goods mentioned in the indictment and found stolen by a jury. 1 J. Chitty, Criminal Law 817–820 (2d ed. 1816); 1 M. Hale, Pleas of the Crown 545 (1736). In America, too, courts held that in prosecutions for larceny, the jury usually had to find the value of the stolen property before restitution to the victim could be ordered. See, *e. g.*, *Schoonover* v. *State*, 17 Ohio St. 294 (1867); *Jones* v. *State*, 13 Ala. 153 (1848); *State* v. *Somerville*, 21 Me. 20 (1842); *Commonwealth* v. *Smith*, 1 Mass. 245 (1804). See also Barta, Guarding the Rights of the Accused and Accuser: The Jury's Role in Awarding Criminal Restitution Under the Sixth Amendment, 51 Am. Crim. L. Rev. 463, 472–476 (2014). And it's hard to see why the right to a jury trial should mean less to the people today than it did to those at the time of the Sixth and Seventh Amendments' adoption.

Respectfully, I would grant the petition for review.

No. 18–61. Stand Up for California! et al. *v.* Department of the Interior et al. C. A. D. C. Cir. Certiorari de-

nied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 879 F. 3d 1177.

No. 18–64. LUCIO-RAYOS *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 875 F. 3d 573.

No. 18–267. ELECTRONIC PRIVACY INFORMATION CENTER *v.* PRESIDENTIAL ADVISORY COMMISSION ON ELECTION INTEGRITY ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 878 F. 3d 371.

No. 18–327. N. K., AN INFANT, BY HIS MOTHER AND NATURAL GUARDIAN, BRUESTLE-KUMRA *v.* ABBOTT LABORATORIES. C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 731 Fed. Appx. 24.

No. 18–370. HAIGHT *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 892 F. 3d 1271.

No. 18–398. FCA US LLC ET AL. *v.* FLYNN ET AL. (two judgments). C. A. 7th Cir. Motion of CTIA–The Wireless Association et al. for leave to file brief as *amici curiae* granted. Motion of respondents for leave to file brief in opposition under seal with redacted copies for the public record granted. Certiorari denied.

No. 18–480. RAGHAVENDRA *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 18–513. MULCAHY *v.* ASPEN PITKIN COUNTY HOUSING AUTHORITY. Ct. App. Colo. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied.

No. 18–544. CANUTO *v.* DEPARTMENT OF DEFENSE ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition. Reported below: 723 Fed. Appx. 6.

No. 18–6376. ALBRA *v.* BOARD OF TRUSTEES OF MIAMI DADE COLLEGE ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

No. 18–6502. EPPERSON *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA. C. A. 9th Cir. Certiorari before judgment denied.

No. 18–6717. LEI YIN *v.* THERMO FISHER SCIENTIFIC. C. A. 1st Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 18–6783. SCOTT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 890 F. 3d 1239.

No. 18–6854. DURHAM *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 902 F. 3d 1180.

No. 18–6872. ABDUL-SALAAM *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 895 F. 3d 254.

No. 18–6915. ROBINSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 599.

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting.

I dissent for the reasons set out in *Brown* v. *United States*, 586 U. S. 953 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

Rehearing Denied

No. 17–8502. AMBROSE *v.* TRIERWEILER, WARDEN, 584 U. S. 1037;

No. 17–8558. LONG *v.* UNITED STATES, 586 U. S. 918;

No. 17–8688. ASSA'AD-FALTAS *v.* CITY OF COLUMBIA, SOUTH CAROLINA, 586 U. S. 830;

No. 17–8842. JACKSON *v.* GEORGIA, 586 U. S. 834;

No. 17–8909. JARAMILLO *v.* NEW YORK, 586 U. S. 835;

No. 17–9004. STURGES *v.* CURTIN, WARDEN, 586 U. S. 838;

No. 17–9034. Taylor *v.* Jones, Secretary, Florida Department of Corrections, 586 U. S. 839;

No. 17–9292. Styles *v.* Department of Veterans Affairs, 586 U. S. 852;

No. 17–9306. Trinh *v.* Trinh, 586 U. S. 997;

No. 17–9363. McFarlin *v.* Harris, Clerk, Supreme Court of the United States, et al., 586 U. S. 856;

No. 17–9433. Junod *v.* United States, 586 U. S. 860;

No. 17–9461. Bulovic *v.* Stop & Shop Supermarket Co., LLC, et al., 586 U. S. 861;

No. 18–79. Klein et al. *v.* O'Brien et al., 586 U. S. 873;

No. 18–209. Mehta *v.* California, 586 U. S. 966;

No. 18–220. Carrillo et al. *v.* U. S. Bank N. A. et al., 586 U. S. 966;

No. 18–233. Indiezone, Inc., et al. *v.* Rooke et al., 586 U. S. 966;

No. 18–239. Rinaldo *v.* Mahan et al., 586 U. S. 966;

No. 18–271. Trost et ux. *v.* Trost, 586 U. S. 987;

No. 18–330. Greene *v.* Frost Brown Todd, LLC, et al., 586 U. S. 1021;

No. 18–382. Rab *v.* Superior Court of California, Sacramento County, et al., 586 U. S. 1021;

No. 18–401. Hobson *v.* Mattis, Secretary of Defense, 586 U. S. 1021;

No. 18–427. Bamdad *v.* United States, 586 U. S. 988;

No. 18–5075. Okafor *v.* United States, 586 U. S. 881;

No. 18–5106. Stewart *v.* Holder et al., 586 U. S. 883;

No. 18–5139. Runnels *v.* Bordelon, Warden, 586 U. S. 884;

No. 18–5161. Waddleton *v.* Davis, Director, Texas Department of Criminal Justice, Correctional Institutions Division, 586 U. S. 886;

No. 18–5325. Lasher *v.* United States, 586 U. S. 894;

No. 18–5366. Martin *v.* Trierweiler, Warden, 586 U. S. 896;

No. 18–5388. Roberts *v.* United States, 586 U. S. 897;

No. 18–5403. Dennis *v.* Oklahoma, 586 U. S. 922;

No. 18–5413. Lewis *v.* Hedgemon et al., 586 U. S. 922;

No. 18–5452. Reid *v.* United States District Court for the District of South Carolina, 586 U. S. 899;

No. 18–5519. Templeton *v.* Amsberry, Superintendent, Eastern Oregon Correctional Institution, et al., 586 U. S. 901;

No. 18–5530. Kaldawi *v.* State of Kuwait et al., 586 U. S. 946;

No. 18–5599. Chi *v.* United States, 586 U. S. 903;

No. 18–5602. Leonard *v.* Florida, 586 U. S. 947;

No. 18–5659. Cavalieri *v.* Virginia, 586 U. S. 969;

No. 18–5689. Bridgette *v.* Asuncion, Warden, et al., 586 U. S. 926;

No. 18–5719. Bartlett *v.* Pineda, Judge, Superior Court of Arizona, Maricopa County, et al., 586 U. S. 970;

No. 18–5720. Bartlett *v.* Pineda, Judge, Superior Court of Arizona, Maricopa County, et al., 586 U. S. 970;

No. 18–5732. LaConte *v.* United States, 586 U. S. 906;

No. 18–5782. Cook *v.* Ryan, Director, Arizona Department of Corrections, et al., 586 U. S. 972;

No. 18–5793. Johnston *v.* Florida, 586 U. S. 1004;

No. 18–5802. Doe *v.* Kaweah Delta Hospital et al., 586 U. S. 972;

No. 18–5829. Matelyan *v.* Atlantic Records et al., 586 U. S. 973;

No. 18–5885. Shannon *v.* United States, 586 U. S. 929;

No. 18–5887. Morton *v.* Haynes, Superintendent, Stafford Creek Corrections Center, 586 U. S. 974;

No. 18–5903. Jones *v.* Berryhill, Acting Commissioner of Social Security, et al., 586 U. S. 990;

No. 18–5977. Rafi *v.* Yale University School of Medicine et al., 586 U. S. 990;

No. 18–6017. Robey *v.* Washington, 586 U. S. 974;

No. 18–6074. Kuri *v.* Kansas Department of Labor, Employment Security Board of Review, 586 U. S. 991; and

No. 18–6166. Rafi *v.* Brigham and Women's Hospital et al., 586 U. S. 1040. Petitions for rehearing denied.

January 8, 2019

Dismissal Under Rule 46

No. 18–5707. Flowers *v.* United States. C. A. 8th Cir. Certiorari dismissed under this Court's Rule 46.1.

Miscellaneous Orders

No. 18A629 (18–281). VIRGINIA HOUSE OF DELEGATES ET AL. *v.* BETHUNE-HILL ET AL. D. C. E. D. Va. [Probable jurisdiction postponed, 586 U. S. 996.] Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

No. 18A669. IN RE GRAND JURY SUBPOENA. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. The administrative stay previously entered by THE CHIEF JUSTICE is vacated.

No. 18–422. RUCHO ET AL. *v.* COMMON CAUSE ET AL. D. C. M. D. N. C. [Probable jurisdiction postponed, 586 U. S. 1062]; and

No. 18–726. LAMONE ET AL. *v.* BENISEK ET AL. D. C. Md. [Probable jurisdiction postponed, 586 U. S. 1063.] Appellants' briefs on the merits are to be filed on or before Friday, February 8, 2019. Appellees' briefs on the merits are to be filed on or before Monday, March 4, 2019. Reply briefs on the merits are to be filed in accordance with Rule 25.3 of the Rules of this Court. *Amicus curiae* briefs in support of appellants or in support of neither party are to be filed on or before Tuesday, February 12, 2019. *Amicus curiae* briefs in support of appellees are to be filed on or before Friday, March 8, 2019.

JANUARY 11, 2019

Certiorari Granted

No. 17–778. QUARLES *v.* UNITED STATES. C. A. 6th Cir. Certiorari granted. Reported below: 850 F. 3d 836.

No. 18–389. PARKER DRILLING MANAGEMENT SERVICES, LTD. *v.* NEWTON. C. A. 9th Cir. Certiorari granted. Reported below: 881 F. 3d 1078 and 888 F. 3d 1085.

No. 18–457. NORTH CAROLINA DEPARTMENT OF REVENUE *v.* KIMBERLEY RICE KAESTNER 1992 FAMILY TRUST. Sup. Ct. N. C. Certiorari granted. Reported below: 371 N. C. 133, 814 S. E. 2d 43.

No. 18–481. FOOD MARKETING INSTITUTE *v.* ARGUS LEADER MEDIA, DBA ARGUS LEADER. C. A. 8th Cir. Certiorari granted. Reported below: 889 F. 3d 914.

No. 18–485. MCDONOUGH *v.* SMITH, INDIVIDUALLY AND AS SPECIAL DISTRICT ATTORNEY FOR THE COUNTY OF RENSSELAER,

NEW YORK. C. A. 2d Cir. Certiorari granted. Reported below: 898 F. 3d 259.

No. 18–525. FORT BEND COUNTY, TEXAS *v.* DAVIS. C. A. 5th Cir. Certiorari granted. Reported below: 893 F. 3d 300.

No. 17–9560. REHAIF *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 888 F. 3d 1138.

No. 18–6210. MITCHELL *v.* WISCONSIN. Sup. Ct. Wis. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 2018 WI 84, 383 Wis. 2d 192, 914 N. W. 2d 151.

JANUARY 14, 2019

Certiorari Granted—Vacated and Remanded

No. 17–9467. WHITE *v.* KENTUCKY. Sup. Ct. Ky. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Moore* v. *Texas*, 581 U. S. 1 (2017).

JUSTICE ALITO, with whom JUSTICE THOMAS and JUSTICE GORSUCH join, dissenting.

The Court grants, vacates, and remands this case in light of *Moore* v. *Texas*, 581 U. S. 1 (2017). But *Moore* was handed down on March 28, 2017—almost five months before the Supreme Court of Kentucky reached a decision in this case. I would accordingly deny the petition for the reasons previously stated in my dissent in *Kaushal* v. *Indiana*, 585 U. S. 1028 (2018), and in Justice Scalia's dissenting opinion in *Webster* v. *Cooper*, 558 U. S. 1039, 1040 (2009).

Miscellaneous Orders

No. 18M88. DEUSCHEL *v.* USC FACULTY DENTAL PRACTICE ET AL. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 18–266. DUTRA GROUP *v.* BATTERTON. C. A. 9th Cir. [Certiorari granted, 586 U. S. 1049.] Motion of petitioner to dispense with printing joint appendix granted.

No. 18–447. ALABAMA DEPARTMENT OF REVENUE ET AL. *v.* CSX TRANSPORTATION, INC.; and

No. 18–612. CSX TRANSPORTATION, INC. *v.* ALABAMA DEPARTMENT OF REVENUE ET AL. C. A. 11th Cir. The Solicitor General is invited to file a brief in these cases expressing the views of the United States.

No. 18–486. TOSHIBA CORP. *v.* AUTOMOTIVE INDUSTRIES PENSION TRUST FUND ET AL. C. A. 9th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 18–6611. PHILIPS *v.* NORTH CAROLINA ET AL. C. A. 4th Cir.;

No. 18–6780. FARR *v.* DAVIS ET AL. C. A. 10th Cir.; and

No. 18–7026. COATS *v.* UNITED STATES. C. A. 4th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until February 4, 2019, 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.

No. 18–7097. IN RE QUINTO; and

No. 18–7135. IN RE HARRINGTON. Petitions for writs of habeas corpus denied.

Certiorari Denied

No. 17–1423. SIMPLY WIRELESS, INC. *v.* T-MOBILE US, INC., FKA T-MOBILE USA, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 877 F. 3d 522.

No. 17–1692. AHSAN *v.* STAPLES THE OFFICE SUPERSTORE EAST, INC. C. A. 2d Cir. Certiorari denied. Reported below: 710 Fed. Appx. 31.

No. 18–149. LAIR ET AL. *v.* MANGAN, COMMISSIONER OF POLITICAL PRACTICES, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 873 F. 3d 1170.

No. 18–317. METZGAR ET AL. *v.* KBR, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 893 F. 3d 241.

No. 18–324. LEONE ET UX., AS TRUSTEES UNDER THAT CERTAIN UNRECORDED LEONE-PERKINS FAMILY TRUST DATED AUGUST 26, 1999, AS AMENDED *v.* MAUI COUNTY, HAWAII, ET AL. Sup. Ct. Haw. Certiorari denied.

No. 18–394. KELLEHER ET UX. *v.* NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 159 App. Div. 3d 822, 69 N. Y. S. 3d 832.

No. 18–573. COLONY COVE PROPERTIES, LLC *v.* CITY OF CARSON, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 888 F. 3d 445.

No. 18–604. DELFIERRO *v.* PENSCO TRUST CO., FBO HERMANN. C. A. 9th Cir. Certiorari denied. Reported below: 719 Fed. Appx. 720.

No. 18–607. VAZEEN, AKA VAZIN *v.* VAZIN. Ct. App. Tenn. Certiorari denied.

No. 18–610. TIENERGY, LLC *v.* WISCONSIN CENTRAL LTD. C. A. 7th Cir. Certiorari denied. Reported below: 894 F. 3d 851.

No. 18–620. SIMMONS *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 731 Fed. Appx. 160.

No. 18–631. MCCABE *v.* ARANDA ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 896 F. 3d 792.

No. 18–635. BURMASTER *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 744 Fed. Appx. 699.

No. 18–638. ANDERSON *v.* HERBERT ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 745 Fed. Appx. 63.

No. 18–641. J. M., BY AND THROUGH HIS MOTHER, MANDEVILLE *v.* MATAYOSHI, SUPERINTENDENT, HAWAII PUBLIC SCHOOLS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 585.

No. 18–643. DUNKLE *v.* DALE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 616.

No. 18–644. COTTINGHAM *v.* WASHINGTON STATE BAR ASSN. ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 191 Wash. 2d 450, 423 P. 3d 818.

No. 18–668. BERG *v.* SOCIAL SECURITY ADMINISTRATION. C. A. 7th Cir. Certiorari denied. Reported below: 900 F. 3d 864.

No. 18–671. SMITH *v.* VALENTINE, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 178.

No. 18–690. ROSETTO ET AL. *v.* MURPHY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 517.

No. 18–693. CRAIN *v.* NEVADA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 591.

No. 18–711. MARIN ET AL. *v.* BANK OF NEW YORK. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 257 So. 3d 128.

No. 18–715. CARPENTER-BARKER *v.* OHIO DEPARTMENT OF MEDICAID ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 752 Fed. Appx. 215.

No. 18–730. MCCORMICK ET AL. *v.* BROWNE ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–738. RICHARDSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 327.

No. 18–739. WALLACE *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–745. OVERTON *v.* TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES. Ct. App. Tenn. Certiorari denied.

No. 18–5135. HONISH *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–5763. WOOTEN *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2018 Ark. 198, 547 S. W. 3d 683.

No. 18–6162. LEMEUNIER-FITZGERALD *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 2018 ME 85, 188 A. 3d 183.

No. 18–6309. HARDY *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 5th 56, 418 P. 3d 309.

No. 18–6471. HAYNES *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 766.

No. 18–6598. ROBINSON *v.* BAYNES. C. A. 6th Cir. Certiorari denied.

No. 18–6615. RILEY *v.* DORETHY, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 838.

No. 18–6621. VANG *v.* ROY, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Certiorari denied.

No. 18–6624. MORRIS *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 18–6626. MILLER *v.* FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 18–6631. HOLLENBACK *v.* CLARK, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–6633. FREMIN *v.* TANNER, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 18–6634. LEONEL GONZALEZ *v.* ARMENTA ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6635. HAMPTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–6636. GRIFFIN *v.* ARNOLD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6640. HUNDLEY *v.* BAKER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6641. FAHIE *v.* MCDOWELL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6643. ISKANDER *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 18–6644. JINGYUAN FENG *v.* KOMENDA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 699 Fed. Appx. 580.

No. 18–6645. HOPSON *v.* STARK COUNTY, OHIO, ET AL. C. A. 6th Cir. Certiorari denied.

No. 18–6646. DAVIS *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 245 So. 3d 745.

No. 18–6648. ESCOBEDO *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 297.

No. 18–6649. DAVIS *v.* BROWN & DORTCH LLC ET AL. Ct. Sp. App. Md. Certiorari denied.

No. 18–6651. COBB *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 246 So. 3d 1244.

No. 18–6655. MILLER *v.* MACLAREN, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 269.

No. 18–6656. PRINCE *v.* JACKSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6657. KHOSHMOOD *v.* DISTRICT OF COLUMBIA HOUSING AUTHORITY HEADQUARTERS. C. A. D. C. Cir. Certiorari denied. Reported below: 727 Fed. Appx. 703.

No. 18–6658. VETETO *v.* DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS, ET AL. Ct. Civ. App. Ala. Certiorari denied. Reported below: 268 So. 3d 49.

No. 18–6663. ESCOBAR *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2017 IL App (1st) 151963–U.

No. 18–6668. TORY *v.* WHITED ET AL. Sup. Ct. Va. Certiorari denied.

No. 18–6669. CHESTNUT *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied.

No. 18–6670. BARKER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 18–6674. RHYMES *v.* TEXAS. Ct. App. Tex., 6th Dist. Certiorari denied. Reported below: 536 S. W. 3d 85.

No. 18–6685. MERRYMAN *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6686. PEDERSON *v.* MINNESOTA ET AL. C. A. 8th Cir. Certiorari denied.

No. 18–6688. LEONARD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied.

No. 18–6690. LAWSON *v.* SPEIGHT ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6696. TORRES ORTEGA *v.* BONDI, ATTORNEY GENERAL OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 18–6699. DRANE *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–6701. EPPERSON *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied.

No. 18–6704. ZEMKE *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 18–6709. LANDRUM *v.* OHIO. Ct. App. Ohio, 4th App. Dist., Ross County. Certiorari denied. Reported below: 2018-Ohio-1280.

No. 18–6710. TYLER *v.* MAIN INDUSTRIES, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 717 Fed. Appx. 275.

No. 18–6724. OZIER *v.* HARRY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–6730. RAMIREZ ET AL. *v.* SUPERIOR COURT OF CALIFORNIA, EL DORADO COUNTY, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 18–6751. MCINTOSH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 900 F. 3d 1301.

No. 18–6754. MCCARNS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 900 F. 3d 1141.

No. 18–6756. KORESKO *v.* ACOSTA, SECRETARY OF LABOR. C. A. 3d Cir. Certiorari denied. Reported below: 726 Fed. Appx. 127.

No. 18–6831. WILLOCK *v.* SPERFSLAGE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 18–6860. MCCLOUD *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6874. CORNELIUS *v.* TOWN OF ATKINSON, NEW HAMPSHIRE. Sup. Ct. N. H. Certiorari denied.

No. 18–6939. NELSON *v.* NORWOOD, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 740 Fed. Appx. 935.

No. 18–6941. CHAPMAN *v.* LAMPERT, DIRECTOR, WYOMING DEPARTMENT OF CORRECTIONS, ET AL. Sup. Ct. Wyo. Certiorari denied.

No. 18–6955. HARRISON *v.* FULTON COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 579.

No. 18–6971. COOLEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 957.

No. 18–6980. MARTIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 501.

No. 18–6983. WEISS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6984. TILLMAN *v.* BARNHART, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 361.

No. 18–6986. CLOUD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 727.

No. 18–6994. MEADOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 488.

No. 18–6995. OWENS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 299.

No. 18–6996. CURSHEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–7004. RODRIGUEZ-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 597.

No. 18–7005. AVILES SALGUERO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 748 Fed. Appx. 109.

No. 18–7007. SPOOR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 904 F. 3d 141.

No. 18–7009. DAVIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 748 Fed. Appx. 449.

No. 18–7010. MITCHELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 904 F. 3d 25.

No. 18–7012. ADDISON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 18–7021. THOMAS *v.* JOHNSON, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 18–7023. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 724 Fed. Appx. 253.

No. 18–7029. RUELAS-MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 737 Fed. Appx. 228.

No. 18–7032. LOMAX *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 744 Fed. Appx. 754.

No. 18–7035. REODICA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 747 Fed. Appx. 535.

No. 18–7037. SMITH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 18–7039. NDAULA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 18–7044. YELLOWBEAR *v.* LAMPERT, DIRECTOR, WYOMING DEPARTMENT OF CORRECTIONS. Sup. Ct. Wyo. Certiorari denied.

No. 18–7050. PORTILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 478.

No. 18–7060. SCHUMAKER *v.* JOYNER, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 181.

No. 18–7061. REZA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 253.

No. 18–7065. LOBO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 749 Fed. Appx. 31.

No. 18–7066. JONES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 18–7067. JOHNSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 221.

No. 18–7074. MATTIACCIO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 729 Fed. Appx. 266.

No. 18–7076. PERSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 745 Fed. Appx. 380.

No. 18–7110. FLINN *v.* PARRIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 18–307. STATE NATIONAL BANK OF BIG SPRING ET AL. *v.* MNUCHIN, SECRETARY OF THE TREASURY, ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

No. 18–391. ARIZONA *v.* GOODMAN. Sup. Ct. Ariz. Motions of Arizona Voice for Crime Victims, Inc., et al. and Michael C. Dorf et al. for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 244 Ariz. 22, 417 P. 3d 787.

No. 18–496. MICHAELS *v.* WHITAKER, ACTING ATTORNEY GENERAL, ET AL. C. A. 9th Cir. Motion of petitioner to substitute denied. Certiorari denied. Reported below: 700 Fed. Appx. 757.

No. 18–650. CABRERA-RANGEL *v.* UNITED STATES. C. A. 5th Cir. Motion of Cato Institute for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 730 Fed. Appx. 227.

No. 18–6617. RUDZAVICE *v.* HARMON, WARDEN. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 734 Fed. Appx. 317.

No. 18–6713. GRANT *v.* CARPENTER, INTERIM WARDEN. C. A. 10th Cir. Certiorari denied. JUSTICE GORSUCH took no part in the consideration or decision of this petition. Reported below: 886 F. 3d 874.

Rehearing Denied

No. 17–7364. GORAYA *v.* FLORIDA, 583 U. S. 1171;

No. 17–8816. ACKERMAN ET AL. *v.* BANK OF NEW YORK MELLON, 586 U. S. 833;

No. 17–9500. SWINTON *v.* RACETTE, SUPERINTENDENT, GREAT MEADOWS CORRECTIONAL FACILITY, 586 U. S. 863;

No. 17–9540. FARMER *v.* UNITED STATES, 586 U. S. 866;

No. 18–5131. TU MY TONG *v.* NEW MEXICO ET AL., 586 U. S. 884;

No. 18–5180. WEN LIU *v.* UNIVERSITY OF MIAMI SCHOOL OF MEDICINE, 586 U. S. 887;

No. 18–5429. GARRY *v.* TRANE CO., 586 U. S. 922;

No. 18–5499. SANCHEZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 586 U. S. 924;

No. 18–5523. SANCHEZ *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 586 U. S. 925;

No. 18–5920. ROLLAND *v.* CARNATION BUILDING SERVICES, INC., 586 U. S. 1000;

No. 18–5981. PASTOR *v.* PARTNERSHIP FOR CHILDREN'S RIGHTS, 586 U. S. 990;

No. 18–6046. SKILLERN *v.* UNITED STATES, 586 U. S. 952; and

No. 18–6050. RODRIGUEZ *v.* BURTON, WARDEN, 586 U. S. 1001. Petitions for rehearing denied.

No. 18–5810. CHIRINO RIVERA *v.* UNITED STATES, 586 U. S. 938. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 18–5925. LOREN *v.* CITY OF NEW YORK, NEW YORK, ET AL., 586 U. S. 1029. Petition for rehearing denied. THE CHIEF JUSTICE, JUSTICE GINSBURG, and JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

JANUARY 22, 2019

Dismissal Under Rule 46

No. 18–636. PURE PRESBYTERIAN CHURCH OF WASHINGTON ET AL. *v.* GRACE OF GOD PRESBYTERIAN CHURCH. Sup. Ct. Va. Certiorari dismissed under this Court's Rule 46.1. Reported below: 296 Va. 42, 817 S. E. 2d 547.

Certiorari Dismissed

No. 18–6684. MATELYAN *v.* FOX 11. C. A. 9th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–6736. WHITNEY *v.* GLOVER, CLERK, CIRCUIT COURT OF LINCOLN COUNTY, ARKANSAS, ET AL. C. A. 8th Cir. Motion

of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 18–7048. NANCE *v.* UNITED STATES. C. A. 4th Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. As 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*). Reported below: 732 Fed. Appx. 246.

Miscellaneous Orders

No. 18A625. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* KARNOSKI ET AL. D. C. W. D. Wash. Application for stay, presented to JUSTICE KAGAN, and by her referred to the Court, granted, and the District Court's December 11, 2017, order granting preliminary injunction is stayed pending disposition of the Government's appeal in the United States Court of Appeals for the Ninth Circuit and disposition of the Government's petition for writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

No. 18A627. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* STOCKMAN ET AL. D. C. C. D. Cal. Application for stay presented to JUSTICE KAGAN, and by her referred to the Court, granted, and the District Court's December 22, 2017, order granting preliminary injunction is stayed pending disposition of the Government's appeal in the United States Court of Appeals for the Ninth Circuit and disposition of the Government's petition for writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for writ of certiorari, this order shall terminate when the Court enters its judgment. JUSTICE GINSBURG, JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN would deny the application.

No. 18A669. In re Grand Jury Subpoena. Applications for leave to file the application for stay, the response, and the reply under seal presented to The Chief Justice, and by him referred to the Court, granted.

No. 18M89. Baltazar Garcia *v.* United States. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 18M90. Harris *v.* fuller. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 18M93. In re Grand Jury Subpoena. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 17–1657. Mission Product Holdings, Inc. *v.* Tempnology, LLC, nka Old Cold LLC. C. A. 1st Cir. [Certiorari granted, 586 U. S. 960.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 17–1705. PDR Network, LLC, et al. *v.* Carlton & Harris Chiropractic, Inc. C. A. 4th Cir. [Certiorari granted, 586 U. S. 996.] Motion of petitioners to dispense with printing joint appendix granted.

No. 17–1717. American Legion et al. *v.* American Humanist Assn. et al.; and

No. 18–18. Maryland-National Capital Park and Planning Commission *v.* American Humanist Assn. et al. C. A. 4th Cir. [Certiorari granted, 586 U. S. 985.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Joint motion of petitioners for enlargement of time for oral argument and for divided argument granted, and the time is divided as follows: 15 minutes for petitioner in No. 18–18, 10 minutes for petitioners in No. 17–1717, 10 minutes for the Acting Solicitor General as *amicus curiae*, and 35 minutes for respondents.

No. 18–6048. In re Spottsville. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [586 U. S. 943] denied.

No. 18–6745. In re Spencer; and

No. 18–6868. IN RE ROUKIS. Petitions for writs of mandamus denied.

No. 18–6825. IN RE SHEPHARD. Petition for writ of mandamus and/or prohibition denied. THE CHIEF JUSTICE and JUSTICE KAVANAUGH took no part in the consideration or decision of this petition.

Certiorari Granted

No. 18–280. NEW YORK STATE RIFLE & PISTOL ASSN., INC., ET AL. *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 883 F. 3d 45.

Certiorari Denied

No. 17–6891. WOOD *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 17–6943. JONES *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 18–475. ZAREMBA FAMILY FARMS, INC., ET AL. *v.* ENCANA OIL & GAS (USA) INC. C. A. 6th Cir. Certiorari denied. Reported below: 736 Fed. Appx. 557.

No. 18–500. FIRST PRESBYTERIAN CHURCH U. S. A. OF TULSA, OKLAHOMA, ET AL. *v.* DOE. Sup. Ct. Okla. Certiorari denied. Reported below: 2017 OK 106, 421 P. 3d 284.

No. 18–506. HASSELL ET AL. *v.* YELP, INC. Sup. Ct. Cal. Certiorari denied. Reported below: 5 Cal. 5th 522, 420 P. 3d 776.

No. 18–561. BERKLEY ET AL. *v.* FEDERAL ENERGY REGULATORY COMMISSION ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 896 F. 3d 624.

No. 18–615. MUNRO ET AL. *v.* LUCY ACTIVEWEAR INC. ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 899 F. 3d 585.

No. 18–618. GUTIERREZ ET AL. *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 889 F. 3d 1230.

No. 18–628. COOPER, AS ADMINISTRATOR OF THE ESTATE OF COOPER, DECEASED *v.* HAQ ET AL. Sup. Ct. Ala. Certiorari denied.

No. 18–630. RICHARDS *v.* CITY OF DES MOINES POLICE DEPARTMENT ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 720 Fed. Appx. 821.

No. 18–634. EL-SABA *v.* UNIVERSITY OF SOUTH ALABAMA. C. A. 11th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 640.

No. 18–646. MARQUETTE TRANSPORTATION CO., L. L. C., ET AL. *v.* ENTERGY MISSISSIPPI, INC. C. A. 5th Cir. Certiorari denied. Reported below: 742 Fed. Appx. 800.

No. 18–647. PULTE HOMES OF NEW YORK LLC *v.* TOWN OF CARMEL, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 736 Fed. Appx. 291.

No. 18–655. SPITZER *v.* ALJOE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 734 Fed. Appx. 457.

No. 18–659. MASOMI *v.* MADADI. C. A. 1st Cir. Certiorari denied.

No. 18–660. TAGGART *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 723 Fed. Appx. 127.

No. 18–662. MCDONALD *v.* CITY OF WICHITA, KANSAS. C. A. 10th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 529.

No. 18–665. ALVIS *v.* SCHILLING. C. A. 10th Cir. Certiorari denied. Reported below: 733 Fed. Appx. 453.

No. 18–764. STEINMETZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 900 F. 3d 595.

No. 18–793. BREWSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 718 Fed. Appx. 197.

No. 18–5694. JAMES *v.* ASUNCION, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 723 Fed. Appx. 451.

No. 18–5760. BROWN *v.* MANSUKHANI, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 320.

No. 18–5965. HARMON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 879.

No. 18–6062. RUBI IBARRA *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 814.

No. 18–6097. MARQUEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 728 Fed. Appx. 884.

No. 18–6330. ARNALDO RODRIGUES *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 918.

No. 18–6375. WHISBY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 18–6378. PEEDE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 249 So. 3d 1181.

No. 18–6650. DUPLESSIS-JEAN, AKA DUPLESSIS, AKA JEAN *v.* WHITAKER, ACTING ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied.

No. 18–6708. WILLIAMS *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2018-Ohio-1358.

No. 18–6722. PORTER *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied. Reported below: 540 S. W. 3d 178.

No. 18–6735. TAYLOR *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 246 So. 3d 231.

No. 18–6740. LASHER *v.* BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS, PENNSYLVANIA STATE BOARD OF PHARMACY. Commw. Ct. Pa. Certiorari denied.

No. 18–6743. KULICK *v.* LEISURE VILLAGE ASSN., INC. C. A. 9th Cir. Certiorari denied. Reported below: 741 Fed. Appx. 439.

No. 18–6744. SCHAEFER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CRIMINAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 18–6749. BARNES *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 888 F. 3d 1148.

No. 18–6762. THOMAS *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 18–6769. MIDDLETON *v.* PASH, SUPERINTENDENT, CROSSROADS CORRECTIONAL CENTER. Sup. Ct. Mo. Certiorari denied.

No. 18–6785. SCOTT *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied.

No. 18–6786. HILL *v.* LIZARRAGA, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 731 Fed. Appx. 686.

No. 18–6788. BEAN *v.* HAMILTON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 712 Fed. Appx. 324.

No. 18–6790. OTWORTH *v.* TRUMP, PRESIDENT OF THE UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 728 Fed. Appx. 6.

No. 18–6832. WEST *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 344 Ga. App. 274, 808 S. E. 2d 914.

No. 18–6843. DAILEY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 247 So. 3d 390.

No. 18–6880. LENZ *v.* JONES, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 18–6889. BOOKER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 252 So. 3d 723.

No. 18–6945. WASHINGTON *v.* FRAUENHEIM, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 18–6973. MINOR *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 18–7072. HARPER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 737 Fed. Appx. 17.

No. 18–7077. PULHAM *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 735 Fed. Appx. 937.

No. 18–7078. O'SHAUGHNESSY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 18–7079. MORILLO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 910 F. 3d 1.

No. 18–7108. PRYER *v.* GARDNER. Sup. Ct. Miss. Certiorari denied. Reported below: 247 So. 3d 1245.

No. 18–7138. ALVAREZ-MORENO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 738 Fed. Appx. 465.

No. 18–7144. RUSSELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 904 F. 3d 111.

No. 18–7156. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 752 Fed. Appx. 771.

No. 18–12. KENNEDY *v.* BREMERTON SCHOOL DISTRICT. C. A. 9th Cir. Certiorari denied. Reported below: 869 F. 3d 813.

Statement of JUSTICE ALITO, with whom JUSTICE THOMAS, JUSTICE GORSUCH, and JUSTICE KAVANAUGH join, respecting the denial of certiorari.

I concur in the denial of the petition for a writ of certiorari because denial of certiorari does not signify that the Court necessarily agrees with the decision (much less the opinion) below. In this case, important unresolved factual questions would make it very difficult if not impossible at this stage to decide the free speech question that the petition asks us to review.

I

Petitioner Joseph Kennedy claims that he lost his job as football coach at a public high school because he engaged in conduct that was protected by the Free Speech Clause of the First Amendment. He sought a preliminary injunction awarding two forms of relief: (1) restoration to his job and (2) an order requiring the school to allow him to pray silently on the 50-yard line after each football game. The latter request appears to depend on petitioner's entitlement to the first—to renewed employment—since it seems that the school would not permit members of the general public to access the 50-yard line at the relevant time.

The key question, therefore, is whether petitioner showed that he was likely to prevail on his claim that the termination of his employment violated his free speech rights, and in order to answer that question it is necessary to ascertain what he was likely to be able to prove regarding the basis for the school's action.

Unfortunately, the answer to this second question is far from clear.

On October 23, 2015, the superintendent wrote to petitioner to explain why the district found petitioner's conduct at the then-most recent football game to be unacceptable. And in that letter, the superintendent gave two quite different reasons: first, that petitioner, in praying on the field after the game, neglected his responsibility to supervise what his players were doing at that time and, second, that petitioner's conduct would lead a reasonable observer to think that the district was endorsing religion because he had prayed while "on the field, under the game lights, in BHS-logoed attire, in front of an audience of event attendees." 869 F. 3d 813, 819 (CA9 2017). After two subsequent games, petitioner again kneeled on the field and prayed, and the superintendent then wrote to petitioner, informing him that he was being placed on leave and was forbidden to participate in any capacity in the school football program. The superintendent's letter reiterated the two reasons given in his letter of October 23. And the district elaborated on both reasons in an official public statement explaining the reasons for its actions.

When the case was before the District Court, the court should have made a specific finding as to what petitioner was likely to be able to show regarding the reason or reasons for his loss of employment. If the likely reason was simply petitioner's neglect of his duties—if, for example, he was supposed to have been actively supervising the players after they had left the field but instead left them unsupervised while he prayed on his own—his free speech claim would likely fail. Under those circumstances, it would not make any difference that he was praying as opposed to engaging in some other private activity at that time. On the other hand, his free speech claim would have far greater weight if petitioner was likely to be able to establish either that he was not really on duty at the time in question or that he was on duty only in the sense that his workday had not ended and that his prayer took place at a time when it would have been permissible for him to engage briefly in other private conduct, say, calling home or making a reservation for dinner at a local restaurant.

Unfortunately, the District Court's brief, informal oral decision did not make any clear finding about what petitioner was likely to be able to prove. Instead, the judge's comments melded the two distinct justifications:

> "He was still in charge. He was still on the job. He was still responsible for the conduct of his students, his team. . . . And a reasonable observer, in my judgment, would have seen him as a coach, participating, in fact leading an orchestrated session of faith . . . ." App. to Pet. for Cert. 89.

The decision of the Ninth Circuit was even more imprecise on this critical point. Instead of attempting to pinpoint what petitioner was likely to be able to prove regarding the reason or reasons for his loss of employment, the Ninth Circuit recounted all of petitioner's prayer-related activities over the course of several years, including conduct in which he engaged as a private citizen, such as praying in the stands as a fan after he was suspended from his duties.

If this case were before us as an appeal within our mandatory jurisdiction, our clear obligation would be to vacate the decision below with instructions that the case be remanded to the District Court for proper application of the test for a preliminary injunction, including a finding on the question of the reason or reasons for petitioner's loss of employment. But the question before us is different. It is whether we should grant discretionary review, and we generally do not grant such review to decide highly fact-specific questions. Here, although petitioner's free speech claim may ultimately implicate important constitutional issues, we cannot reach those issues until the factual question of the likely reason for the school district's conduct is resolved. For that reason, review of petitioner's free speech claim is not warranted at this time.

II

While I thus concur in the denial of the present petition, the Ninth Circuit's understanding of the free speech rights of public school teachers is troubling and may justify review in the future.

The Ninth Circuit's opinion applies our decision in *Garcetti* v. *Ceballos*, 547 U. S. 410 (2006), to public school teachers and coaches in a highly tendentious way. According to the Ninth Circuit, public school teachers and coaches may be fired if they engage in any expression that the school does not like while they are on duty, and the Ninth Circuit appears to regard teachers and coaches as being on duty at all times from the moment they report for work to the moment they depart, provided that they are within the eyesight of students. Under this interpretation of *Garcetti*, if teachers are visible to a student while eating lunch, they can be ordered not to engage in any "demonstrative" conduct

of a religious nature, such as folding their hands or bowing their heads in prayer. And a school could also regulate what teachers do during a period when they are not teaching by preventing them from reading things that might be spotted by students or saying things that might be overheard.

This Court certainly has never read *Garcetti* to go that far. While *Garcetti* permits a public employer to regulate employee speech that is part of the employee's job duties, we warned that a public employer cannot convert private speech into public speech "by creating excessively broad job descriptions." *Id.*, at 424. If the Ninth Circuit continues to apply its interpretation of *Garcetti* in future cases involving public school teachers or coaches, review by this Court may be appropriate.

What is perhaps most troubling about the Ninth Circuit's opinion is language that can be understood to mean that a coach's duty to serve as a good role model requires the coach to refrain from any manifestation of religious faith—even when the coach is plainly not on duty. I hope that this is not the message that the Ninth Circuit meant to convey, but its opinion can certainly be read that way. After emphasizing that petitioner was hired to "communicate a positive message through the example set by his own conduct," the court criticized him for "his media appearances and prayer in the BHS bleachers (while wearing BHS apparel and surrounded by others)." 869 F. 3d, at 826. This conduct, in the opinion of the Ninth Circuit, "signal[ed] his intent to send a message to students and parents about appropriate behavior and what he values as a coach." *Ibid.* But when petitioner prayed in the bleachers, he had been suspended. He was attending a game like any other fan. The suggestion that even while off duty, a teacher or coach cannot engage in any outward manifestation of religious faith is remarkable.

III

While the petition now before us is based solely on the Free Speech Clause of the First Amendment, petitioner still has live claims under the Free Exercise Clause of the First Amendment and Title VII of the Civil Rights Act of 1964. See Brief in Opposition 11, n. 1. Petitioner's decision to rely primarily on his free speech claims as opposed to these alternative claims may be due to certain decisions of this Court.

In *Employment Div., Dept. of Human Resources of Ore.* v. *Smith*, 494 U. S. 872 (1990), the Court drastically cut back on the

protection provided by the Free Exercise Clause, and in *Trans World Airlines, Inc.* v. *Hardison*, 432 U. S. 63 (1977), the Court opined that Title VII's prohibition of discrimination on the basis of religion does not require an employer to make any accommodation that imposes more than a *de minimis* burden. In this case, however, we have not been asked to revisit those decisions.

No. 18–676. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* KARNOSKI ET AL. C. A. 9th Cir. Motion of Foundation for Moral Law for leave to file brief as *amicus curiae* granted. Certiorari before judgment denied.

No. 18–677. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* DOE ET AL. C. A. D. C. Cir. Certiorari before judgment denied.

No. 18–678. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL. *v.* STOCKMAN ET AL. C. A. 9th Cir. Certiorari before judgment denied.

No. 18–6882. CRAIN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 246 So. 3d 206.

JUSTICE SOTOMAYOR, dissenting.

I dissent for the reasons set out in *Reynolds* v. *Florida*, 586 U. S. 1004, 1011 (2018) (SOTOMAYOR, J., dissenting from denial of certiorari).

Rehearing Denied

No. 17–9054. TOWBRIDGE *v.* FLORIDA, 586 U. S. 840;

No. 17–9213. WILLIAMS *v.* KENT, WARDEN, 586 U. S. 848;

No. 18–344. SHAO *v.* MCMANIS FAULKNER, LLP, 586 U. S. 1021;

No. 18–5420. HEAGY *v.* PENNSYLVANIA, 586 U. S. 922;

No. 18–5548. TUTTLE *v.* ALLIED NEVADA GOLD CORP. ET AL., 586 U. S. 1000; and

No. 18–5569. WEISNER *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 586 U. S. 947. Petitions for rehearing denied.

JANUARY 30, 2019

Certiorari Denied

No. 18–6848 (18A540). JENNINGS *v.* TEXAS. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, pre-

sented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied. Reported below: 662 S. W. 3d 379.

No. 18–7650 (18A775). JENNINGS *v.* DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied. Reported below: 760 Fed. Appx. 319.

FEBRUARY 1, 2019

Dismissal Under Rule 46

No. 18–625. CITY OF MIAMI, FLORIDA *v.* SMART. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46.1 Reported below: 740 Fed. Appx. 952.

FEBRUARY 7, 2019

Miscellaneous Orders

No. 18A774. JUNE MEDICAL SERVICES, L. L. C., ET AL. *v.* GEE, SECRETARY, LOUISIANA DEPARTMENT OF HEALTH AND HOSPITALS. Application for stay, presented to JUSTICE ALITO, and by him referred to the Court, granted, and the mandate of the United States Court of Appeals for the Fifth Circuit in case No. 17–30397 is stayed pending the timely filing and disposition of a petition for writ of certiorari. Should the petition for writ of certiorari be denied, this stay shall terminate automatically. In the event the petition for writ of certiorari is granted, the stay shall terminate upon the sending down of the judgment of this Court. JUSTICE THOMAS, JUSTICE ALITO, JUSTICE GORSUCH, and JUSTICE KAVANAUGH would deny the application.

JUSTICE KAVANAUGH, dissenting.

I respectfully dissent from the Court's stay order. In this case, the plaintiffs raised a pre-enforcement facial challenge to Louisiana's new admitting-privileges requirement for doctors who perform abortions. The Fifth Circuit rejected the plaintiffs' facial challenge based on that court's factual prediction that the new law would not affect the availability of abortions from, as relevant here, the four doctors who currently perform abortions at Louisiana's three abortion clinics. In particular, the Fifth Circuit determined that the four doctors likely could obtain admitting privi-

leges. The plaintiffs seek a stay of the Fifth Circuit's mandate. They argue that the Fifth Circuit's factual prediction is inaccurate because, according to the plaintiffs, three of those four doctors will not be able to obtain admitting privileges. As I explain below, even without a stay, the status quo will be effectively preserved for all parties during the State's 45-day regulatory transition period. I would deny the stay without prejudice to the plaintiffs' ability to bring a later as-applied complaint and motion for preliminary injunction at the conclusion of the 45-day regulatory transition period if the Fifth Circuit's factual prediction about the doctors' ability to obtain admitting privileges proves to be inaccurate.

Louisiana's new law requires doctors who perform abortions to have admitting privileges at a nearby hospital. The question presented to us at this time is whether the law imposes an undue burden under our decision in *Whole Woman's Health* v. *Hellerstedt*, 579 U. S. 582 (2016). All parties, including the State of Louisiana, agree that *Whole Woman's Health* is the governing precedent for purposes of this stay application. I therefore will analyze the stay application under that precedent.

Louisiana has three clinics that currently provide abortions. As relevant here, four doctors perform abortions at those three clinics. One of those four doctors has admitting privileges at a nearby hospital, as required by the new law. The question is whether the other three doctors—Doe 2, Doe 5, and Doe 6—can obtain the necessary admitting privileges. If they can, then the three clinics could continue providing abortions. And if so, then the new law would not impose an undue burden for purposes of *Whole Woman's Health*. By contrast, if the three doctors cannot obtain admitting privileges, then one or two of the three clinics would not be able to continue providing abortions. If so, then even the State acknowledges that the new law might be deemed to impose an undue burden for purposes of *Whole Woman's Health*.

The law has not yet taken effect, so the case comes to us in the context of a pre-enforcement facial challenge. That means that the parties have offered, in essence, competing *predictions* about whether those three doctors can obtain admitting privileges. The District Court concluded that the three doctors likely could not obtain admitting privileges. The District Court therefore enjoined the law. The Court of Appeals for the Fifth Circuit

concluded that the three doctors likely could obtain admitting privileges. The Fifth Circuit therefore lifted the injunction.

Before us, the case largely turns on the intensely factual question whether the three doctors—Doe 2, Doe 5, and Doe 6—can obtain admitting privileges. If we denied the stay, that question could be readily and quickly answered without disturbing the status quo or causing harm to the parties or the affected women, and without this Court's further involvement at this time. That is because the State's regulation provides that there will be a 45-day regulatory transition period before the new law is applied. The State represents, moreover, that Louisiana will not "move aggressively to enforce the challenged law" during the transition period, Objection to Emergency Application for Stay 2, and further represents that abortion providers will not "immediately be forced to cease operations," *id.*, at 25. Louisiana's regulation together with its express representations to this Court establish that even without admitting privileges, these three doctors (Doe 2, Doe 5, and Doe 6) could lawfully continue to perform abortions at the clinics during the 45-day transition period. Furthermore, during the 45-day transition period, both the doctors and the relevant hospitals could act expeditiously and in good faith to reach a definitive conclusion about whether those three doctors can obtain admitting privileges.

If the doctors, after good-faith efforts during the 45-day period, cannot obtain admitting privileges, then the Fifth Circuit's factual predictions, which were made in the context of a pre-enforcement facial challenge, could turn out to be inaccurate as applied. And if that turns out to be the case, then even the State acknowledges that the law as applied might be deemed to impose an undue burden for purposes of *Whole Woman's Health*. In that circumstance, the plaintiffs could file an as-applied complaint or motion for preliminary injunction in the District Court, and the District Court could consider under *Whole Woman's Health* whether to enter a preliminary or permanent injunction.

On the other hand, if the doctors can obtain necessary admitting privileges during the 45-day transition period, then the doctors could continue performing abortions at the three clinics both during and after the 45-day transition period, as envisioned and predicted by the Fifth Circuit. And in that circumstance, the Louisiana law as applied would not impose an undue burden under *Whole Woman's Health*.

In order to resolve the factual uncertainties presented in the stay application about the three doctors' ability to obtain admitting privileges, I would deny the stay without prejudice to the plaintiffs' ability to bring a later as-applied complaint and motion for preliminary injunction at the conclusion of the 45-day regulatory transition period. The Court adopts an approach—granting the stay and presumably then granting certiorari for plenary review next Term of the plaintiffs' pre-enforcement facial challenge—that will take far longer and be no more beneficial than the approach suggested here. I respectfully dissent from the Court's stay order.

No. 18A815. DUNN, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS *v.* RAY. Application to vacate stay of execution of sentence of death, entered by the United States Court of Appeals for the Eleventh Circuit on February 6, 2019, presented to JUSTICE THOMAS, and by him referred to the Court, granted.

On November 6, 2018, the State scheduled Domineque Ray's execution date for February 7, 2019. Because Ray waited until January 28, 2019, to seek relief, we grant the State's application to vacate the stay entered by the Court of Appeals. See *Gomez* v. *United States Dist. Court for Northern Dist. of Cal.*, 503 U. S. 653, 654 (1992) (*per curiam*) ("A court may consider the last-minute nature of an application to stay execution in deciding whether to grant equitable relief").

JUSTICE KAGAN, with whom JUSTICE GINSBURG, JUSTICE BREYER, and JUSTICE SOTOMAYOR join, dissenting.

Holman Correctional Facility, the Alabama prison where Domineque Ray will be executed tonight, regularly allows a Christian chaplain to be present in the execution chamber. But Ray is Muslim. And the prison refused his request to have an imam attend him in the last moments of his life. Yesterday, the Eleventh Circuit concluded that there was a substantial likelihood that the prison's policy violates the First Amendment's Establishment Clause, and stayed Ray's execution so it could consider his claim on its merits. Today, this Court reverses that decision as an abuse of discretion and permits Mr. Ray's execution to go forward. Given the gravity of the issue presented here, I think that decision profoundly wrong.

"The clearest command of the Establishment Clause," this Court has held, "is that one religious denomination cannot be

officially preferred over another." *Larson* v. *Valente*, 456 U. S. 228, 244 (1982). But the State's policy does just that. Under that policy, a Christian prisoner may have a minister of his own faith accompany him into the execution chamber to say his last rites. But if an inmate practices a different religion—whether Islam, Judaism, or any other—he may not die with a minister of his own faith by his side. That treatment goes against the Establishment Clause's core principle of denominational neutrality. See, *e. g.*, *Epperson* v. *Arkansas*, 393 U. S. 97, 104 (1968) ("[Government] may not aid, foster, or promote one religion or religious theory against another"); *Zorach* v. *Clauson*, 343 U. S. 306, 314 (1952) ("The government must be neutral when it comes to competition between sects").

To justify such religious discrimination, the State must show that its policy is narrowly tailored to a compelling interest. I have no doubt that prison security is an interest of that kind. But the State has offered no evidence to show that its wholesale prohibition on outside spiritual advisers is necessary to achieve that goal. Why couldn't Ray's imam receive whatever training in execution protocol the Christian chaplain received? The State has no answer. Why wouldn't it be sufficient for the imam to pledge, under penalty of contempt, that he will not interfere with the State's ability to perform the execution? The State doesn't say. The only evidence the State has offered is a conclusory affidavit stating that its policy "is the least restrictive means of furthering" its interest in safety and security. Brief for Applicant, Exh. A, p. 2. That is not enough to support a denominational preference.

I also see no reason to reject the Eleventh Circuit's finding that Ray brought his claim in a timely manner. The warden denied Ray's request to have his imam by his side on January 23, 2019. And Ray filed his complaint five days later, on January 28. The State contends that Ray should have known to bring his claim earlier, when his execution date was set on November 6. But the relevant statute would not have placed Ray on notice that the prison would deny his request. To the contrary, that statute provides that both the chaplain of the prison and the inmate's spiritual adviser of choice "may be present at an execution." Ala. Code § 15–18–83(a) (2018). It makes no distinction between persons who may be present within the execution chamber and those who may enter only the viewing room. And the

prison refused to give Ray a copy of its own practices and procedures (which would have made that distinction clear). So there is no reason Ray should have known, prior to January 23, that his imam would be granted less access than the Christian chaplain to the execution chamber.

This Court is ordinarily reluctant to interfere with the substantial discretion Courts of Appeals have to issue stays when needed. See, *e. g.*, *Dugger* v. *Johnson*, 485 U. S. 945, 947 (1988) (O'Connor, J., joined by Rehnquist, C. J., dissenting). Here, Ray has put forward a powerful claim that his religious rights will be violated at the moment the State puts him to death. The Eleventh Circuit wanted to hear that claim in full. Instead, this Court short-circuits that ordinary process—and itself rejects the claim with little briefing and no argument—just so the State can meet its preferred execution date. I respectfully dissent.

Certiorari Denied

No. 18–7796 (18A813). RAY *v.* ALABAMA. Sup. Ct. Ala. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

FEBRUARY 15, 2019

Certiorari Granted

No. 18–966. DEPARTMENT OF COMMERCE ET AL. *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari before judgment granted. Case will be set for argument in the second week of the April argument session.