

ORDERS FOR JUNE 16 THROUGH
OCTOBER 3, 2008

JUNE 16, 2008

Certiorari Granted—Vacated and Remanded

No. 07–1283. BROWN ET AL. *v.* CASSENS TRANSPORT CO. ET AL. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Bridge v. Phoenix Bond & Indemnity Co.*, 553 U.S. 639 (2008). Reported below: 492 F.3d 640.

No. 07–9713. LOPEZ-MORALES *v.* UNITED STATES. C. A. 5th Cir. Reported below: 256 Fed. Appx. 726;

No. 07–9769. JAIMES-AGUIRRE *v.* UNITED STATES. C. A. 5th Cir. Reported below: 258 Fed. Appx. 662; and

No. 07–9855. SALAZAR-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Reported below: 258 Fed. Appx. 661. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Gall v. United States*, 552 U.S. 38 (2007).

Miscellaneous Orders

No. 07–1152. WELDON ET AL. *v.* NORFOLK SOUTHERN RAILWAY CO. Sup. Ct. Ohio. The Acting Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 07–9985. IN RE XIANGYUAN ZHU. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [553 U.S. 1017] denied.

No. 07–11025. IN RE CARBIN. 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. 07–10553. IN RE GINCO. Petition for writ of mandamus denied.

June 16, 2008

554 U. S.

Certiorari Granted

No. 07-1015. ASHCROFT, FORMER ATTORNEY GENERAL, ET AL. *v.* IQBAL ET AL. C. A. 2d Cir. Certiorari granted. Reported below: 490 F. 3d 143.

No. 07-1209. PEAKE, SECRETARY OF VETERANS AFFAIRS *v.* SANDERS (Reported below: 487 F. 3d 881); and PEAKE, SECRETARY OF VETERANS AFFAIRS *v.* SIMMONS (487 F. 3d 892). C. A. Fed. Cir. Certiorari granted.

No. 07-10374. HAYWOOD *v.* DROWN ET AL. Ct. App. N. Y. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 9 N. Y. 3d 481, 881 N. E. 2d 180.

Certiorari Denied

No. 07-962. CAVEL INTERNATIONAL, INC. *v.* MADIGAN, ATTORNEY GENERAL OF ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 3d 544.

No. 07-991. MOMAH *v.* EARP, CHAIR, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 239 Fed. Appx. 114.

No. 07-1061. ESTATE OF THOMPSON, DECEASED, ET AL. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 2d Cir. Certiorari denied. Reported below: 499 F. 3d 129.

No. 07-1075. DUPUY ET AL. *v.* MCEWEN, DIRECTOR, ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES. C. A. 7th Cir. Certiorari denied. Reported below: 495 F. 3d 807.

No. 07-1079. ADEDUNTAN ET AL. *v.* HOSPITAL AUTHORITY OF CLARKE COUNTY, DBA ATHENS REGIONAL MEDICAL CENTER, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 249 Fed. Appx. 151.

No. 07-1082. BAKER *v.* CHISOM ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 501 F. 3d 920.

No. 07-1110. JOHNSON *v.* MULLIN, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 505 F. 3d 1128.

No. 07-1161. CARTER, SHERIFF, MOORE COUNTY, NORTH CAROLINA, ET AL. *v.* MASSASOIT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 253 Fed. Appx. 295.

554 U.S.

June 16, 2008

No. 07-1169. *RANGOLAN v. MUKASEY, ATTORNEY GENERAL*. C. A. 4th Cir. Certiorari denied.

No. 07-1175. *BURKE ET AL. v. BROOKLINE SCHOOL DISTRICT*. C. A. 1st Cir. Certiorari denied. Reported below: 257 Fed. Appx. 335.

No. 07-1181. *POINT REYES SEASHORE LODGE ET AL. v. DELIL*. C. A. 9th Cir. Certiorari denied. Reported below: 254 Fed. Appx. 633.

No. 07-1276. *JENKINS v. LIFETIME HOAN CORP.* C. A. 7th Cir. Certiorari denied. Reported below: 259 Fed. Appx. 863.

No. 07-1278. *DAHLQUIST v. VUKICH*. Ct. App. Wash. Certiorari denied.

No. 07-1279. *CURNIN ET VIR v. TOWN OF EGREMONT, MASSACHUSETTS, ET AL.* C. A. 1st Cir. Certiorari denied. Reported below: 510 F. 3d 24.

No. 07-1285. *ADAMS ET AL. v. BRINK'S CO. ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 261 Fed. Appx. 583.

No. 07-1290. *SADLER ET UX. v. HINE ET UX*. Ct. App. N. M. Certiorari denied.

No. 07-1292. *BORNHORST ET AL. v. HARRIS*. C. A. 6th Cir. Certiorari denied. Reported below: 513 F. 3d 503.

No. 07-1293. *NILSSEN ET AL. v. OSRAM SYLVANIA, INC., ET AL.* C. A. Fed. Cir. Certiorari denied. Reported below: 504 F. 3d 1223.

No. 07-1299. *WEINBERGER ET AL. v. TUCKER*. C. A. 4th Cir. Certiorari denied. Reported below: 510 F. 3d 486.

No. 07-1300. *MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION v. DILLON*. C. A. 4th Cir. Certiorari denied. Reported below: 258 Fed. Appx. 577.

No. 07-1306. *NIKOLBIBAJ ET AL. v. MUKASEY, ATTORNEY GENERAL*. C. A. 6th Cir. Certiorari denied. Reported below: 232 Fed. Appx. 546.

No. 07-1307. *WARE v. OREGON DEPARTMENT OF HUMAN SERVICES*. Ct. App. Ore. Certiorari denied. Reported below: 213 Ore. App. 391, 161 P. 3d 955.

June 16, 2008

554 U. S.

No. 07–1312. *ROSA v. CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 259 Fed. Appx. 918.

No. 07–1314. *KIM v. WASHINGTON STATE DEPARTMENT OF LICENSING.* C. A. 9th Cir. Certiorari denied.

No. 07–1324. *DURKIN v. MUKASEY, ATTORNEY GENERAL.* C. A. 9th Cir. Certiorari denied. Reported below: 262 Fed. Appx. 12.

No. 07–1335. *WORDLAW v. OREGON DEPARTMENT OF CORRECTIONS ET AL.* Ct. App. Ore. Certiorari denied. Reported below: 214 Ore. App. 570, 166 P. 3d 606.

No. 07–1342. *RUSSELL v. VIRGINIA.* Sup. Ct. Va. Certiorari denied.

No. 07–1349. *SCOTT v. MERCIER, DEPUTY SHERIFF, BRANTLEY COUNTY, GEORGIA.* C. A. 11th Cir. Certiorari denied. Reported below: 268 Fed. Appx. 872.

No. 07–1369. *ELEY v. DEPARTMENT OF VETERANS AFFAIRS.* C. A. 8th Cir. Certiorari denied. Reported below: 247 Fed. Appx. 852.

No. 07–1378. *GOZA v. MICHIGAN.* Cir. Ct. Wayne County, Mich. Certiorari denied.

No. 07–1379. *MAY v. UNITED STATES.* C. A. 11th Cir. Certiorari denied.

No. 07–1403. *WALLACE v. UNITED STATES.* C. A. Armed Forces. Certiorari denied. Reported below: 66 M. J. 5.

No. 07–1406. *WAGSTAFF v. DEPARTMENT OF EDUCATION.* C. A. 5th Cir. Certiorari denied. Reported below: 509 F. 3d 661.

No. 07–1419. *BRAQUET v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 316 Fed. Appx. 345.

No. 07–1423. *ISSA, AKA HABIB, ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 801.

No. 07–1426. *VALENTINE v. UNITED STATES.* C. A. 6th Cir. Certiorari denied. Reported below: 488 F. 3d 325.

554 U.S.

June 16, 2008

No. 07-1439. *CRAIG ET AL. v. DISTRICT OF COLUMBIA ET AL.* Ct. App. D. C. Certiorari denied. Reported below: 930 A. 2d 946.

No. 07-1449. *COEN v. COEN ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 509 F. 3d 900.

No. 07-9108. *COPENING, AKA CARPENTER v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 506 F. 3d 1241.

No. 07-9112. *RYLAND v. FLORIDA.* Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 967 So. 2d 204.

No. 07-9425. *GOLDBERG v. GEORGIA.* Sup. Ct. Ga. Certiorari denied. Reported below: 282 Ga. 542, 651 S. E. 2d 667.

No. 07-9435. *MINA ET AL. v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 255 Fed. Appx. 437.

No. 07-9512. *BOCKTING v. BAYER, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 505 F. 3d 973.

No. 07-9606. *MILLER v. BERKEBILE, WARDEN.* C. A. 5th Cir. Certiorari denied.

No. 07-9906. *ANGELLO v. NORTHERN MARIANAS COLLEGE.* Sup. Ct. N. Mar. I. Certiorari denied.

No. 07-10330. *FISHER v. NEW YORK.* County Ct., Nassau County, N. Y. Certiorari denied.

No. 07-10342. *GUIITERREZ v. FORNISS, WARDEN, ET AL.* C. A. 11th Cir. Certiorari denied.

No. 07-10347. *DAVALOS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 07-10348. *CAIN v. CONWAY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 07-10350. *SAVAGE v. CALIFORNIA DEPARTMENT OF CORRECTIONS ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 264 Fed. Appx. 645.

No. 07-10352. *ZAMORA v. ADAMS, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 256 Fed. Appx. 90.

June 16, 2008

554 U. S.

No. 07-10361. *VANDERWALL v. VIRGINIA*. Sup. Ct. Va. Certiorari denied.

No. 07-10366. *BULLOCK v. LEAKE*. Ct. App. D. C. Certiorari denied. Reported below: 936 A. 2d 836.

No. 07-10369. *ANDERSON v. PAYNE ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 260 Fed. Appx. 743.

No. 07-10370. *BOYD v. KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOEY, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 07-10372. *ALLEN v. CITY OF ROCHESTER, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 07-10396. *KESZTHELYI v. ISSON ET AL.* C. A. 6th Cir. Certiorari denied.

No. 07-10397. *LEWIS v. WASHINGTON COUNTY HEALTH DEPARTMENT ET AL.* Ct. App. Ind. Certiorari denied. Reported below: 868 N. E. 2d 1216.

No. 07-10403. *MASON v. DAVIS, WARDEN.* C. A. 6th Cir. Certiorari denied.

No. 07-10404. *JONES v. CALIFORNIA.* Sup. Ct. Cal. Certiorari denied.

No. 07-10406. *JOHNSON v. ERCOLE, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 07-10407. *CORNET v. FLORIDA.* Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 915 So. 2d 239.

No. 07-10413. *LAWRENCE v. SUTTON, CORRECTIONAL ADMINISTRATOR I, PASQUOTANK CORRECTIONAL INSTITUTION.* C. A. 4th Cir. Certiorari denied. Reported below: 271 Fed. Appx. 316.

No. 07-10418. *BEA v. JOHNSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS.* C. A. 4th Cir. Certiorari denied. Reported below: 268 Fed. Appx. 262.

No. 07-10425. *GIBBS v. MINNER, GOVERNOR OF DELAWARE, ET AL.* C. A. 3d Cir. Certiorari denied. Reported below: 271 Fed. Appx. 243.

554 U.S.

June 16, 2008

No. 07-10431. *WILLIAMS v. ALAMEDA COUNTY SHERIFF DEPARTMENT ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 256 Fed. Appx. 961.

No. 07-10438. *SAVAGE v. PEARSON, WARDEN.* Sup. Ct. Va. Certiorari denied.

No. 07-10520. *JACKSON v. ASTRUE, COMMISSIONER OF SOCIAL SECURITY, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 255 Fed. Appx. 245.

No. 07-10527. *RISKIN v. CALIFORNIA.* Ct. App. Cal., 5th App. Dist. Certiorari denied. Reported below: 143 Cal. App. 4th 234, 49 Cal. Rptr. 3d 287.

No. 07-10548. *WHIGHAM v. FLORIDA ET AL.* Sup. Ct. Fla. Certiorari denied. Reported below: 975 So. 2d 430.

No. 07-10678. *PATTON v. MCNEIL, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS.* C. A. 11th Cir. Certiorari denied.

No. 07-10706. *KUEHNE v. KEMNA, SUPERINTENDENT, CROSS-ROADS CORRECTIONAL CENTER.* C. A. 8th Cir. Certiorari denied.

No. 07-10714. *WEYGANT v. ARTUS, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY.* C. A. 2d Cir. Certiorari denied.

No. 07-10757. *CUMMINGS v. SIRMONS, WARDEN.* C. A. 10th Cir. Certiorari denied. Reported below: 506 F. 3d 1211.

No. 07-10805. *WILSON v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 07-10930. *GRAHAM v. UNITED STATES.* C. A. 10th Cir. Certiorari denied. Reported below: 312 Fed. Appx. 79.

No. 07-10931. *FLORES-NAVARRO v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 830.

No. 07-10932. *HEADEN v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 264 Fed. Appx. 244.

No. 07-10937. *ZARAZUA-ALEMAN v. UNITED STATES.* C. A. 5th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 386.

June 16, 2008

554 U. S.

No. 07–10939. *LOPEZ-LOPEZ v. SANDERS, WARDEN*. C. A. 8th Cir. Certiorari denied. Reported below: 256 Fed. Appx. 15.

No. 07–10941. *PUGH v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 273 Fed. Appx. 449.

No. 07–10944. *ABBOTT v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 307.

No. 07–10946. *OLIVER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 258 Fed. Appx. 912.

No. 07–10947. *PARKER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied.

No. 07–10948. *CANTU-MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 334.

No. 07–10949. *MEDINA CASTENEDA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 511 F. 3d 1246.

No. 07–10954. *HILL v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 930 A. 2d 267.

No. 07–10956. *GAYNOR v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 262 Fed. Appx. 341.

No. 07–10959. *HOWTON v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 260 Fed. Appx. 813.

No. 07–10960. *HARRISON v. LINDSAY, WARDEN*. C. A. 3d Cir. Certiorari denied.

No. 07–10965. *ACEVES FLORES, AKA LOPEZ-ARIAS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 260 Fed. Appx. 481.

No. 07–10967. *ROGERS v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 264 Fed. Appx. 236.

No. 07–10968. *SNYDER v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 511 F. 3d 813.

No. 07–10976. *LAMPERT v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 275 Fed. Appx. 703.

No. 07–10986. *VARGAS TORRES v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 683.

554 U.S.

June 16, 2008

No. 07–10989. *CARLISLE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 827.

No. 07–10990. *MORTON v. UNITED STATES*. C. A. 11th Cir. Certiorari denied.

No. 07–10991. *MORALES v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 260 Fed. Appx. 585.

No. 07–10999. *WRIGHT v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 264 Fed. Appx. 341.

No. 07–11007. *BRUCE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied.

No. 07–11010. *ANGEL-POSADA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 379.

No. 07–11020. *BUTLER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 252 Fed. Appx. 150.

No. 07–11021. *BAILEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 264 Fed. Appx. 480.

No. 07–11026. *COLEMAN v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 276 Fed. Appx. 766.

No. 07–81. *EXXON MOBIL CORP. ET AL. v. DOE ET AL.* C. A. D. C. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 473 F. 3d 345.

No. 07–539. *PROGRESS ENERGY, INC. v. TAYLOR*. C. A. 4th Cir. Motion of North Carolina Retail Merchants Association for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 493 F. 3d 454.

No. 07–1329. *QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION v. CHAMBERS*. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 260 Fed. Appx. 706.

No. 07–1338. *CINTAS CORP. v. ABEL ET AL.* C. A. 9th Cir. Certiorari before judgment denied.

June 16, 17, 2008

554 U. S.

No. 07–9358. *MATHIS v. WACHOVIA BANK*. C. A. 11th Cir. Certiorari denied. JUSTICE THOMAS took no part in the consideration or decision of this petition. Reported below: 255 Fed. Appx. 425.

Rehearing Denied

No. 07–8706. *JOHNSON v. KEEBLER-SUNSHINE BISCUITS, INC., AKA KEEBLER CO.*, 552 U. S. 1264;

No. 07–8841. *SATCHEL v. SCHOOL BOARD OF HILLSBORO COUNTY*, 552 U. S. 1315;

No. 07–9020. *VALENTINE v. BURTT, WARDEN*, 552 U. S. 1298;

No. 07–9067. *ARZAGA v. CAMPBELL, WARDEN*, 552 U. S. 1299;

No. 07–9261. *IN RE SHABAZZ*, 552 U. S. 1308;

No. 07–9348. *RANES v. OVERTON*, 552 U. S. 1320;

No. 07–9349. *ROGERS v. WOOLDRIDGE ET AL.*, 552 U. S. 1321;

No. 07–9552. *ELLIS v. VIRGINIA*, 553 U. S. 1009;

No. 07–9767. *LIMA v. FLORIDA*, 553 U. S. 1022;

No. 07–10098. *SPRATT v. UNITED STATES*, 553 U. S. 1025;

No. 07–10117. *SPELLS v. CITY OF NEW YORK, NEW YORK*, 553 U. S. 1025; and

No. 07–10238. *IN RE ROSE*, 553 U. S. 1017. Petitions for rehearing denied.

No. 07–7965. *ELLIOTT v. CHURCH OF SCIENTOLOGY INTERNATIONAL ET AL.*, 552 U. S. 1193; and

No. 07–8554. *DIAZ v. GREEN ET AL.*, 552 U. S. 1246. Motions for leave to file petitions for rehearing denied.

JUNE 17, 2008

Miscellaneous Order

No. 07–11406 (07A992). *IN RE HOOD*. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 07–11423 (07A995). *HOOD v. QUARTERMAN, 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 SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 281 Fed. Appx. 394.

554 U.S.

June 17, 20, 23, 2008

No. 07-11452 (07A1004). *HOOD v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

JUNE 20, 2008

Miscellaneous Order

No. 07A1021. *REED v. OZMINT, COMMISSIONER, SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, ET AL.* Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied.

JUNE 23, 2008

Certiorari Granted—Vacated and Remanded

No. 07-153. *PARACHA v. BUSH, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. D. C. Cir.; and

No. 07-416. *ZALITA v. BUSH, PRESIDENT OF THE UNITED STATES, ET AL.* C. A. D. C. Cir. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Boumediene v. Bush*, 553 U.S. 723 (2008).

No. 07-495. *EDDY ET AL. v. WAFFLE HOUSE, INC.* C. A. 4th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Taylor v. Sturgell*, 553 U.S. 880 (2008).

No. 07-818. *NUNEZ v. UNITED STATES*. C. A. 7th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of the position asserted by the Solicitor General in his brief for the United States filed May 12, 2008. Reported below: 495 F. 3d 544.

JUSTICE SCALIA, with whom THE CHIEF JUSTICE and JUSTICE THOMAS join, dissenting.

Petitioner pleaded guilty to federal narcotics offenses and waived appellate and collateral-review rights. Despite that waiver, he demanded (the Court of Appeals assumed) that his attorney file a notice of appeal; his attorney refused. Petitioner sought habeas relief, claiming that this failure was ineffective assistance of counsel. See 495 F. 3d 544, 545 (CA7 2007). The District Court denied relief, and the Court of Appeals affirmed, finding that petitioner had waived his right to raise even the

ineffective-assistance claim on collateral review. See *id.*, at 546, 548–549. Petitioner has filed a petition for a writ of certiorari, asking us to consider the ineffective-assistance claim. The Government argues in response that the question is not presented because the Court of Appeals’ opinion rests on petitioner’s collateral-review waiver. I agree with that response, and so would deny the petition for writ of certiorari.

Yet the Government urges us to GVR—to grant the petition, vacate the judgment, and remand the case to the Court of Appeals—because it believes that the Court of Appeals misconstrued the scope of petitioner’s collateral-review waiver. A majority of the Court agrees to that course. I do not. In my view we have no power to set aside (vacate) another court’s judgment unless we find it to be in error. See *Mariscal v. United States*, 449 U. S. 405, 407 (1981) (Rehnquist, J., dissenting). Even so, I have reluctantly acquiesced in our dubious yet well-entrenched habit of entering a GVR order *without an independent examination of the merits* when the Government, as respondent, confesses error in the judgment below. See *Lawrence v. Chater*, 516 U. S. 163, 182–183 (1996) (SCALIA, J., dissenting). But because “we have no *power* to vacate a judgment that has not been shown to be (or been conceded to be) in error,” *Price v. United States*, 537 U. S. 1152, 1153 (2003) (SCALIA, J., dissenting), I continue to resist GVR disposition when the Government, without conceding that a *judgment* is in error, merely suggests that the lower court’s *basis* for the judgment is wrong, see *Lawrence*, *supra*, at 183, and n. 3 (dissenting opinion); cf. *Alvarado v. United States*, 497 U. S. 543, 545 (1990) (Rehnquist, C. J., dissenting). That describes this case. The Government’s brief is entirely agnostic on the correctness of the Court of Appeals’ judgment—*i. e.*, its affirmance of the District Court’s denial of habeas relief. Presumably, the Government believes the judgment is correct; it asked the Court of Appeals to affirm the District Court’s judgment the first time around, and presumably will do the same on remand.

To make matters worse, the Government’s suggestion that the Court of Appeals erred in construing the scope of petitioner’s waiver is not even convincing. The collateral-review waiver in petitioner’s plea agreement is inartfully worded; it is perhaps susceptible of the Government’s reading, but in my view the Court of Appeals’ reading is better. In any event, during his plea colloquy

554 U.S.

June 23, 2008

petitioner orally agreed to a collateral-review waiver precisely in line with the Court of Appeals' position. Compare Brief for United States 3–4 (plea colloquy) with *id.*, at 16–17 (plea agreement). It is bad enough to upend the judgment of a lower court because the Solicitor General, while not saying the judgment was wrong, opines that the expressed basis for it was wrong; it is absurd to do this when the Solicitor General's gratuitous opinion is dubious on its face.

Finally, we should be especially reluctant to GVR on the Solicitor General's say-so when, if that say-so *is* correct, the likely consequence will be to create a conflict among the Courts of Appeals. Before resting its judgment on petitioner's collateral-review waiver, the Court of Appeals expressed its unfavorable view of petitioner's ineffective-assistance claim, recognizing, however, that its view contradicted the view of at least six other Courts of Appeals. See 495 F. 3d, at 546–548. If, on remand, the Court of Appeals agrees with the Solicitor General that petitioner's collateral-review waiver does not preclude his claim, the court in all likelihood will enter the same judgment by rejecting petitioner's ineffective-assistance claim, thereby creating (absent reversal en banc) a split with those other courts. I had thought that the main purpose of our certiorari jurisdiction was to eliminate circuit splits, not to create them.

For all these reasons, I respectfully dissent from the Court's order.

No. 07–1054 (07A677). GATES, SECRETARY OF DEFENSE, ET AL. *v.* BISMULLAH ET AL. C. A. D. C. Cir. Application for stay, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Motion of respondents for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Boumediene v. Bush*, 553 U.S. 723 (2008). Reported below: 501 F. 3d 178.

No. 07–9267. STEPHENSON *v.* UNITED STATES. C. A. 7th 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 the position asserted by the Solicitor General in his brief for the United States filed May 12, 2008.

JUSTICE SCALIA, with whom THE CHIEF JUSTICE and JUSTICE THOMAS join, dissenting.

Petitioner pleaded guilty to distributing crack cocaine. He waived “all appellate issues that might have been available if he had exercised his right to trial” but reserved the right to appeal the validity of his guilty plea. See No: 06C1304, Memorandum Opinion and Order (ND Ill., May 2, 2006), App. B to Pet. for Cert. 3–4. Petitioner nonetheless (allegedly) asked his attorney to file a notice of appeal to argue that the substance he distributed was not crack cocaine. His attorney filed nothing. On collateral review, petitioner claimed that his attorney’s failure was ineffective assistance of counsel. The District Court denied the claim, finding that any appeal his attorney might have pursued was doomed because he waived his right to appeal and because petitioner had expressly identified the substance as crack cocaine in his guilty plea. On appeal, the Court of Appeals asked the parties to address the effect of its decision in *Nunez v. United States*, 495 F. 3d 544 (CA7 2007), which held that Nunez’s plea agreement waived his right to bring an identical ineffective-assistance claim on collateral review. The Government argued that petitioner’s case was materially indistinguishable from *Nunez*. The Court of Appeals summarily affirmed the District Court’s judgment.

Petitioner asks us to consider his ineffective-assistance claim. That claim does not warrant our review, so I would deny his petition for certiorari. In the Brief for United States, the Solicitor General suggests that we GVR—grant the petition, vacate the judgment, and remand the case to the Court of Appeals. He contends (contrary to the Government’s position below) that petitioner’s waiver is less comprehensive than the waiver in *Nunez*. And since he thinks that the Court of Appeals’ reading of the waiver in *Nunez* was wrong (he has asked us to GVR in Nunez’s case for that very reason), the Solicitor General concludes that, inasmuch as the Court of Appeals might have agreed with the Government’s (now repudiated) position below, the reasoning behind the judgment below may be wrong. The Solicitor General does not challenge the *judgment* below, nor does he take a position on petitioner’s ineffective-assistance claim, insofar as that may have been the basis for the Court of Appeals’ summary order.

As I state in my dissent in *Nunez v. United States*, *ante*, at 912, the Solicitor General’s confession of error in the Court of Appeals’

554 U.S.

June 23, 2008

reasoning, but not its judgment, does not justify entry of a GVR order. That disposition is especially inappropriate in this case because we cannot even be sure that the Court of Appeals' summary order was premised on the alleged error. See *Lawrence v. Chater*, 516 U.S. 163, 184–186 (1996) (SCALIA, J., dissenting). For all we know, the Court of Appeals identified a difference in the plea agreements and therefore summarily affirmed because it agreed with the District Court's reasoning on the merits of petitioner's ineffective-assistance claim.

I respectfully dissent.

Certiorari Granted—Remanded

No. 06–1039. ESTATE OF ROXAS ET AL. *v.* PIMENTEL, TEMPORARY ADMINISTRATOR OF THE ESTATE OF PIMENTEL, DECEASED, ET AL. C. A. 9th Cir. The Court reversed the judgment below in *Republic of Philippines v. Pimentel*, 553 U.S. 851 (2008). Therefore, certiorari granted, and case remanded for further proceedings. Reported below: 464 F. 3d 885.

Certiorari Dismissed

No. 07–10445. FLETCHER *v.* BOARD OF PROFESSIONAL RESPONSIBILITY. Sup. Ct. Tenn. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 07–10486. TEDDER *v.* CULLIVER, WARDEN. 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.

Miscellaneous Orders

No. 07A938. GARDNER, DBA BETHEL ARAM MINISTRIES, ET AL. *v.* UNITED STATES. Application for stay, addressed to JUSTICE THOMAS and referred to the Court, denied.

No. 07M71. SABAN *v.* DEPARTMENT OF LABOR; and

No. 07M72. SOROKINA *v.* MOODY. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 07–9241. IN RE MONTFORD. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [552 U.S. 1309] denied.

No. 06–1194. IN RE ALI; and

June 23, 2008

554 U. S.

No. 07-6827. *IN RE AL-GHIZZAWI*. Petitions for writs of habeas corpus denied without prejudice. Petitioners are free to file habeas corpus petitions in an appropriate district court with jurisdiction over the matters.

No. 07-11154. *IN RE ADAMS*. 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. 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*). JUSTICE STEVENS dissents. See *id.*, at 4, and cases cited therein.

No. 07-1394. *IN RE BELL*; and

No. 07-10468. *IN RE EMERSON*. Petitions for writs of mandamus denied.

Certiorari Granted

No. 07-512. *PACIFIC BELL TELEPHONE CO., DBA AT&T CALIFORNIA, ET AL. v. LINKLINE COMMUNICATIONS, INC., ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 503 F. 3d 876.

No. 07-543. *AT&T CORP. v. HULTEEN ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 498 F. 3d 1001.

No. 07-615. *MINISTRY OF DEFENSE AND SUPPORT FOR THE ARMED FORCES OF THE ISLAMIC REPUBLIC OF IRAN v. ELAHI.* C. A. 9th Cir. Certiorari granted. Reported below: 495 F. 3d 1024.

No. 07-1114. *CONE v. BELL, WARDEN.* C. A. 6th Cir. Certiorari granted. Reported below: 492 F. 3d 743.

No. 07-1239. *WINTER, SECRETARY OF THE NAVY, ET AL. v. NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.* C. A. 9th Cir. Certiorari granted. Reported below: 518 F. 3d 658.

No. 07-1122. *ARIZONA v. JOHNSON.* Ct. App. Ariz. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 217 Ariz. 58, 170 P. 3d 667.

554 U.S.

June 23, 2008

No. 07–8521. *HARBISON v. BELL, WARDEN*. C. A. 6th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 503 F. 3d 566.

Certiorari Denied

No. 06–610. *MOORANI v. MUKASEY, ATTORNEY GENERAL*. C. A. 5th Cir. Certiorari denied. Reported below: 182 Fed. Appx. 352.

No. 06–1285. *DEKOLADENU v. MUKASEY, ATTORNEY GENERAL*. C. A. 4th Cir. Certiorari denied. Reported below: 459 F. 3d 500.

No. 06–1381. *MEJIA-HUERTA ET AL. v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 480 F. 3d 713.

No. 06–8085. *MEYER, AKA SALEM v. UNITED STATES*. C. A. 8th Cir. Certiorari denied. Reported below: 452 F. 3d 998.

No. 06–8346. *O’ROURKE v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 194 Fed. Appx. 814.

No. 06–8481. *GARZA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 188 Fed. Appx. 274.

No. 07–259. *IOURI ET UX. v. MUKASEY, ATTORNEY GENERAL*. C. A. 2d Cir. Certiorari denied. Reported below: 487 F. 3d 76.

No. 07–270. *BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK v. GULINO ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 460 F. 3d 361.

No. 07–373. *CLARK COUNTY, NEVADA v. VACATION VILLAGE, INC., ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 497 F. 3d 902.

No. 07–593. *JIAHUA HUANG ET AL. v. MUKASEY, ATTORNEY GENERAL*. C. A. 5th Cir. Certiorari denied. Reported below: 235 Fed. Appx. 260.

No. 07–618. *GOSS INTERNATIONAL CORP. v. TOKYO KIKAI SEISAKUSHO ET AL.* C. A. 8th Cir. Certiorari denied. Reported below: 491 F. 3d 355.

No. 07–867. *NATIONAL PARKS CONSERVATION ASSN. ET AL. v. TENNESSEE VALLEY AUTHORITY*. C. A. 11th Cir. Certiorari denied. Reported below: 502 F. 3d 1316.

June 23, 2008

554 U. S.

No. 07-1074. *STEWART ET AL. v. MARTIN ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 499 F. 3d 360.

No. 07-1116. *CINTORA AGUILAR v. MUKASEY, ATTORNEY GENERAL.* C. A. 5th Cir. Certiorari denied.

No. 07-1124. *GREEN ET AL. v. CHILTON COUNTY COMMISSION ET AL.* C. A. 11th Cir. Certiorari denied. Reported below: 495 F. 3d 1324.

No. 07-1180. *DEFENDERS OF WILDLIFE ET AL. v. CHERTOFF, SECRETARY OF HOMELAND SECURITY.* D. C. D. C. Certiorari denied. Reported below: 527 F. Supp. 2d 119.

No. 07-1190. *BROWNE v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 505 F. 3d 1229.

No. 07-1193. *DAY ET AL. v. BOND, CHAIRMAN OF THE KANSAS BOARD OF REGENTS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 500 F. 3d 1127.

No. 07-1194. *HENLEY v. BELL, WARDEN.* C. A. 6th Cir. Certiorari denied. Reported below: 487 F. 3d 379.

No. 07-1195. *MOSES v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 496 F. 3d 984.

No. 07-1207. *MCCRAY v. PEE DEE REGIONAL TRANSPORTATION AUTHORITY ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 263 Fed. Appx. 301.

No. 07-1215. *RODRIGUEZ v. UNITED STATES.* C. A. 11th Cir. Certiorari denied. Reported below: 258 Fed. Appx. 269.

No. 07-1286. *W. R. GRACE & Co. v. UNITED STATES;* and

No. 07-1287. *ESCHENBACH ET AL. v. UNITED STATES.* C. A. 9th Cir. Certiorari denied. Reported below: 504 F. 3d 745.

No. 07-1305. *CITY AND COUNTY OF HONOLULU, HAWAII v. MATSUDA, TRUSTEE OF THE SALLY A. MATSUDA SELF-TRUSTED TRUST DATED OCTOBER 15, 1993, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 512 F. 3d 1148.

No. 07-1308. *THOMAS v. LOUISIANA ATTORNEY DISCIPLINARY BOARD.* Sup. Ct. La. Certiorari denied. Reported below: 973 So. 2d 686.

554 U.S.

June 23, 2008

No. 07-1311. *RASK v. FRESENIUS MEDICAL CARE NORTH AMERICA*. C. A. 8th Cir. Certiorari denied. Reported below: 509 F. 3d 466.

No. 07-1320. *ST. TAMMANY PARISH, LOUISIANA v. OMNI PINNACLE, L. L. C., ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 511 F. 3d 476.

No. 07-1321. *REGELIN v. JACKSON, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 243 Fed. Appx. 156.

No. 07-1326. *CHI-MING CHOW v. MICHIGAN ATTORNEY GRIEVANCE COMMISSION*. Sup. Ct. Mich. Certiorari denied.

No. 07-1332. *WARE ET AL. v. FEDERAL HIGHWAY ADMINISTRATION ET AL.* C. A. 5th Cir. Certiorari denied. Reported below: 255 Fed. Appx. 838.

No. 07-1333. *TSG WATER RESOURCES, INC., ET AL. v. D'ALBA & DONOVAN CERTIFIED PUBLIC ACCOUNTANTS, P. C.* C. A. 11th Cir. Certiorari denied. Reported below: 260 Fed. Appx. 191.

No. 07-1343. *DIBBS v. ROLDAN ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 256 Fed. Appx. 387.

No. 07-1353. *DOLAN v. UNITED STATES ET AL.* C. A. 6th Cir. Certiorari denied. Reported below: 514 F. 3d 587.

No. 07-1360. *PRITCHARD v. IMMIGRATION AND NATURALIZATION SERVICE*. C. A. 2d Cir. Certiorari denied. Reported below: 267 Fed. Appx. 6.

No. 07-1364. *GUILFORD COUNTY DEPARTMENT OF SOCIAL SERVICES v. J. G., AKA J. M. G., AKA J. M. S.* Ct. App. N. C. Certiorari denied. Reported below: 186 N. C. App. 496, 652 S. E. 2d 266.

No. 07-1377. *CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA v. HARMAN*. Ct. App. Cal., 1st App. Dist. Certiorari denied. Reported below: 158 Cal. App. 4th 407, 69 Cal. Rptr. 3d 750.

No. 07-1381. *STERNGASS v. PALISADES INTERSTATE PARK COMMISSION ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 260 Fed. Appx. 395.

June 23, 2008

554 U. S.

No. 07-1382. *DORSEY v. TEXAS*. Ct. App. Tex., 9th Dist. Certiorari denied. Reported below: 117 S. W. 3d 332.

No. 07-1409. *AUSTIN v. DOWNS, RACHLIN & MARTIN, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 270 Fed. Appx. 52.

No. 07-1421. *CANON LATIN AMERICA, INC. v. LANTECH (CR)*, S. A. C. A. 11th Cir. Certiorari denied. Reported below: 508 F. 3d 597.

No. 07-1447. *WILSON v. UNITED STATES*. C. A. Armed Forces. Certiorari denied. Reported below: 66 M. J. 39.

No. 07-1448. *MITCHELL v. PEAKE, SECRETARY OF VETERANS AFFAIRS*. C. A. 4th Cir. Certiorari denied. Reported below: 268 Fed. Appx. 215.

No. 07-1459. *HORACE MANN INSURANCE CO. v. GENERAL STAR NATIONAL INSURANCE CO.* C. A. 4th Cir. Certiorari denied. Reported below: 514 F. 3d 327.

No. 07-1461. *BAYLOR v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 517 F. 3d 899.

No. 07-1464. *DELLAS v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 573.

No. 07-1469. *ROSIN v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 263 Fed. Appx. 16.

No. 07-5347. *MCCLUNG v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 483 F. 3d 273.

No. 07-5434. *GRANADO-VELASQUEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 225 Fed. Appx. 247.

No. 07-5665. *BADER v. MUKASEY, ATTORNEY GENERAL*. C. A. 4th Cir. Certiorari denied. Reported below: 214 Fed. Appx. 291.

No. 07-6045. *SANTOS-HERNANDEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 225 Fed. Appx. 841.

No. 07-6212. *RIVERO v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 225 Fed. Appx. 813.

554 U.S.

June 23, 2008

No. 07-6241. *BRAZZEL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 236 Fed. Appx. 26.

No. 07-6381. *NAVARRETE-FIERRO, AKA FIERRO, AKA NAVARRO, AKA NAVARRETE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 230 Fed. Appx. 423.

No. 07-6392. *LOPEZ-MATA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 229 Fed. Appx. 351.

No. 07-7003. *GALICIA-CRUZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 234 Fed. Appx. 259.

No. 07-7040. *LARES-MERAZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 234 Fed. Appx. 265.

No. 07-7591. *YANEZ-CORBO, AKA NUNEZ v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 237 Fed. Appx. 611.

No. 07-7646. *PRESTO v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 498 F. 3d 415.

No. 07-7821. *VALDOVINOS-ZAMORA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 235 Fed. Appx. 621.

No. 07-7834. *TERRY ET AL. v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 234 Fed. Appx. 82.

No. 07-8638. *KAHARUDIN v. MUKASEY, ATTORNEY GENERAL*. C. A. 7th Cir. Certiorari denied. Reported below: 500 F. 3d 619.

No. 07-8857. *JONES v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 372 Ill. App. 3d 1096, 940 N. E. 2d 306.

No. 07-8978. *PELTIER v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 3d 389.

No. 07-8990. *CRUTE v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 238 Fed. Appx. 903.

No. 07-9173. *MOLINA SAVEDRA v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 253 Fed. Appx. 7.

No. 07-9186. *LUNA-BUSTAMANTE v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 253 Fed. Appx. 383.

June 23, 2008

554 U. S.

No. 07-9324. *BROWN v. DOTSON ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 242 Fed. Appx. 19.

No. 07-9375. *CORTEZ CRATER v. GALAZA, WARDEN.* C. A. 9th Cir. Certiorari denied. Reported below: 491 F. 3d 1119.

No. 07-9462. *DWINELLS v. UNITED STATES.* C. A. 1st Cir. Certiorari denied. Reported below: 508 F. 3d 63.

No. 07-9697. *KELLEY v. FLORIDA.* Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 969 So. 2d 379.

No. 07-9760. *SERAFIN v. SCHOOL OF EXCELLENCE IN EDUCATION.* C. A. 5th Cir. Certiorari denied. Reported below: 252 Fed. Appx. 684.

No. 07-9917. *SALAZAR v. QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION.* C. A. 5th Cir. Certiorari denied. Reported below: 260 Fed. Appx. 643.

No. 07-9996. *VOELKER v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 07-10029. *DEMELIO, AKA COOLEY v. UNITED STATES.* C. A. 3d Cir. Certiorari denied. Reported below: 257 Fed. Appx. 511.

No. 07-10069. *YATES v. WASHINGTON.* Sup. Ct. Wash. Certiorari denied. Reported below: 161 Wash. 2d 714, 168 P. 3d 359.

No. 07-10409. *GRAY v. NORTH CAROLINA.* Sup. Ct. N. C. Certiorari denied.

No. 07-10410. *ORTEGA v. CALIFORNIA.* Ct. App. Cal., 1st App. Dist. Certiorari denied.

No. 07-10426. *SAY v. TENNIS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL.* C. A. 3d Cir. Certiorari denied.

No. 07-10429. *ROSAS v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 07-10443. *HAMILTON v. CALIFORNIA.* Ct. App. Cal., 2d App. Dist. Certiorari denied.

554 U.S.

June 23, 2008

No. 07-10447. *GOMEZ v. MCNEIL*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 970 So. 2d 824.

No. 07-10449. *HOWARD v. QUARTERMAN*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 07-10450. *ITURRALDE v. NEW JERSEY*. Super. Ct. N. J., App. Div. Certiorari denied.

No. 07-10451. *DUNLAP v. GREEN ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 259 Fed. Appx. 6.

No. 07-10454. *ROQUE MORA v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 07-10455. *MCCREARY v. BIRKETT*, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 07-10461. *BURSE v. STOVALL*, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 07-10462. *BROYLES v. ILLINOIS*. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 369 Ill. App. 3d 1046, 932 N. E. 2d 1220.

No. 07-10463. *ALVARADO v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 07-10479. *C. B. v. D. M.* Super. Ct. N. J., App. Div. Certiorari denied.

No. 07-10480. *MOSES v. FLORIDA*. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 971 So. 2d 835.

No. 07-10483. *CHARLES v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied.

No. 07-10490. *DIXON v. CALIFORNIA*. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 07-10491. *KANE v. MICHIGAN*. Ct. App. Mich. Certiorari denied.

No. 07-10492. *JONES v. JONES-SMITH*. Ct. App. Ga. Certiorari denied.

June 23, 2008

554 U. S.

No. 07-10493. *MARTINEZ v. CALIFORNIA*. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 07-10499. *MOSES v. BRANKER, WARDEN*. C. A. 4th Cir. Certiorari denied.

No. 07-10500. *MCARTHUR v. BOOKER, WARDEN*. C. A. 6th Cir. Certiorari denied.

No. 07-10504. *BLAIR v. CITY OF HAWTHORNE, CALIFORNIA, ET AL.* C. A. 9th Cir. Certiorari denied.

No. 07-10507. *TERRY v. JONES, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 10th Cir. Certiorari denied. Reported below: 259 Fed. Appx. 85.

No. 07-10512. *THOMPSON v. ALASKA*. Ct. App. Alaska. Certiorari denied.

No. 07-10517. *MCGOWAN v. TENNESSEE*. Ct. Crim. App. Tenn. Certiorari denied.

No. 07-10530. *BLADES v. MILLER, SUPERINTENDENT, EASTERN CORRECTIONAL FACILITY*. C. A. 2d Cir. Certiorari denied. Reported below: 261 Fed. Appx. 314.

No. 07-10531. *BALDWIN v. EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied.

No. 07-10536. *HARTMAN v. BOBBY, WARDEN*. C. A. 6th Cir. Certiorari denied. Reported below: 492 F. 3d 347.

No. 07-10563. *LAWSON v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 973 So. 2d 459.

No. 07-10608. *HOBLEY v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied.

No. 07-10609. *HESS v. OREGON BOARD OF PAROLE AND POST-PRISON SUPERVISION*. C. A. 9th Cir. Certiorari denied. Reported below: 514 F. 3d 909.

No. 07-10610. *HESS v. NOOTH, SUPERINTENDENT, SNAKE RIVER CORRECTIONAL INSTITUTION*. C. A. 9th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 637.

554 U. S.

June 23, 2008

No. 07–10613. *BOWIE v. BRANKER, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 512 F. 3d 112.

No. 07–10615. *GLASS v. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT*. C. A. 9th Cir. Certiorari denied.

No. 07–10666. *BUTLER ET UX. v. SUFFOLK COUNTY, NEW YORK, ET AL.* C. A. 2d Cir. Certiorari denied. Reported below: 255 Fed. Appx. 544.

No. 07–10670. *HOLLEY v. PENNSYLVANIA*. Super. Ct. Pa. Certiorari denied. Reported below: 935 A. 2d 13.

No. 07–10677. *MARROQUIN v. CALIFORNIA*. Ct. App. Cal., 2d App. Dist. Certiorari denied.

No. 07–10695. *SALAZAR ESTRADA v. SCRIBNER, WARDEN, ET AL.* C. A. 9th Cir. Certiorari denied. Reported below: 512 F. 3d 1227.

No. 07–10719. *TAYLOR v. HUMPHREYS, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 07–10726. *JERNIGAN v. CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION*. C. A. 9th Cir. Certiorari denied.

No. 07–10766. *WHITE v. WEST VIRGINIA PAROLE BOARD*. Sup. Ct. App. W. Va. Certiorari denied.

No. 07–10776. *MEREDITH v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 964 So. 2d 247.

No. 07–10800. *DURAND v. FLORIDA*. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 966 So. 2d 400.

No. 07–10810. *FLOWERS v. LANG ET UX*. Sup. Ct. Miss. Certiorari denied.

No. 07–10834. *BISHOP v. EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS*. C. A. 5th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 285.

No. 07–10835. *MEYER v. BRANKER, WARDEN*. C. A. 4th Cir. Certiorari denied. Reported below: 506 F. 3d 358.

June 23, 2008

554 U. S.

No. 07–10847. *TYREE v. MASSACHUSETTS*. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 449 Mass. 1034, 873 N. E. 2d 741.

No. 07–10869. *HOWARD v. OHIO*. Ct. App. Ohio, Clark County. Certiorari denied. Reported below: 174 Ohio App. 3d 562, 883 N. E. 2d 1077.

No. 07–10870. *YORK v. SOUTH CAROLINA ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 256 Fed. Appx. 653.

No. 07–10883. *CLECKLER v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 850.

No. 07–10887. *JONES v. FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES, ET AL.* C. A. 2d Cir. Certiorari denied.

No. 07–10905. *SATTERFIELD v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 254 Fed. Appx. 947.

No. 07–10922. *MANNING v. POTTER, POSTMASTER GENERAL*. C. A. 7th Cir. Certiorari denied. Reported below: 250 Fed. Appx. 743.

No. 07–10924. *LEON v. NEW YORK*. Ct. App. N. Y. Certiorari denied. Reported below: 10 N. Y. 3d 122, 884 N. E. 2d 1037.

No. 07–10975. *SCHOFFNER v. HULICK, WARDEN*. C. A. 7th Cir. Certiorari denied.

No. 07–10982. *YOUNG v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA*. C. A. D. C. Cir. Certiorari denied.

No. 07–11011. *STAPLES v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 266 Fed. Appx. 167.

No. 07–11012. *RANDOLPH v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 261 Fed. Appx. 622.

No. 07–11028. *SMITH v. STINE, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 264 Fed. Appx. 312.

No. 07–11030. *ERVIN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 428.

554 U.S.

June 23, 2008

No. 07–11032. *PEREZ-TOLEDO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 259 Fed. Appx. 915.

No. 07–11033. *LUCAS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 925 A. 2d 624.

No. 07–11041. *BRADFORD v. UNITED STATES*. C. A. 5th Cir. Certiorari denied.

No. 07–11044. *ALVARADO-AYALA v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 265 Fed. Appx. 398.

No. 07–11045. *POWDRILL v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 316.

No. 07–11046. *PEREDES-MENDEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 328.

No. 07–11051. *RICHARDSON v. UNITED STATES*. C. A. 3d Cir. Certiorari denied. Reported below: 265 Fed. Appx. 62.

No. 07–11057. *STUCKEY v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 253 Fed. Appx. 468.

No. 07–11058. *BURKLEY v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 513 F. 3d 1183.

No. 07–11062. *GARCIA-OZUNA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 515.

No. 07–11063. *HAMILTON v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 516 F. 3d 597.

No. 07–11064. *HARRIS v. UNITED STATES*. C. A. 11th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 841.

No. 07–11065. *HOLMES, AKA ROBBINS v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 508 F. 3d 1091.

No. 07–11067. *SOTO-LARA v. UNITED STATES*. C. A. 1st Cir. Certiorari denied.

No. 07–11071. *PRECIADO v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 506 F. 3d 808 and 252 Fed. Appx. 836.

June 23, 2008

554 U. S.

No. 07–11074. *LOPEZ-GUZMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 264 Fed. Appx. 348.

No. 07–11076. *LIN XIAN WU v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 268 Fed. Appx. 139.

No. 07–11078. *BELTRAN-RAMIREZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 371.

No. 07–11079. *BROWN v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 272 Fed. Appx. 465.

No. 07–11081. *BOYSAW v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 284.

No. 07–11082. *BERNAL-IBANOS v. UNITED STATES*. C. A. 2d Cir. Certiorari denied. Reported below: 266 Fed. Appx. 59.

No. 07–11083. *BATES v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 934 A. 2d 946.

No. 07–11087. *REDDITT v. O'BRIEN, WARDEN, ET AL.* C. A. 4th Cir. Certiorari denied. Reported below: 256 Fed. Appx. 608.

No. 07–11089. *GOMEZ-MARTINEZ v. UNITED STATES*. C. A. 5th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 330.

No. 07–11090. *GOURLEY v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 656.

No. 07–11091. *HAILEY v. ASTRUE, COMMISSIONER OF SOCIAL SECURITY*. C. A. 7th Cir. Certiorari denied.

No. 07–11092. *BAEZ-MARTINEZ v. UNITED STATES* (Reported below: 268 Fed. Appx. 323); *ALVARENGA-HERNANDEZ, AKA SLVARENGA, AKA ALVARENZA v. UNITED STATES* (274 Fed. Appx. 347); *BARRIOS v. UNITED STATES* (277 Fed. Appx. 509); *CARBAJAL-ALVARADO, AKA CAVAJAL, AKA CARBARJAR, AKA CARBAJAL v. UNITED STATES* (275 Fed. Appx. 427); *HERNANDEZ-GUIDO v. UNITED STATES* (277 Fed. Appx. 420); *ORTEGA-HERNANDEZ, AKA HERNANDEZ v. UNITED STATES* (272 Fed. Appx. 368); and *PERALES-SOLIS v. UNITED STATES* (275 Fed. Appx. 443). C. A. 5th Cir. Certiorari denied.

554 U.S.

June 23, 2008

No. 07–11097. *FIFIELD v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 267 Fed. Appx. 654.

No. 07–11101. *WILLIAMS v. UNITED STATES*. C. A. 7th Cir. Certiorari denied. Reported below: 257 Fed. Appx. 997.

No. 07–11102. *TILLERY v. UNITED STATES*. C. A. Armed Forces. Certiorari denied. Reported below: 66 M. J. 367.

No. 07–11105. *HUNTER v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 619.

No. 07–11111. *SAVAGE v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 296.

No. 07–11113. *BROWN v. UNITED STATES*. C. A. D. C. Cir. Certiorari denied. Reported below: 516 F. 3d 1047.

No. 07–11114. *BANKS v. UNITED STATES*. Ct. App. D. C. Certiorari denied. Reported below: 926 A. 2d 158.

No. 07–11117. *JIMENEZ v. UNITED STATES*. C. A. 2d Cir. Certiorari denied.

No. 07–11120. *PERDOMO-ESPANA v. UNITED STATES*. C. A. 9th Cir. Certiorari denied. Reported below: 522 F. 3d 983.

No. 07–11121. *TREMBLE v. UNITED STATES*. C. A. 10th Cir. Certiorari denied. Reported below: 266 Fed. Appx. 749.

No. 07–11122. *TESTERMAN v. UNITED STATES*. C. A. 4th Cir. Certiorari denied. Reported below: 263 Fed. Appx. 328.

No. 07–11140. *CALDWELL v. UNITED STATES*. C. A. 6th Cir. Certiorari denied. Reported below: 518 F. 3d 426.

No. 07–619. *PT PERTAMINA (PERSERO), FKA PERUSAHAAN PERTAMBANGAN MINYAK DAN GAS BUMI NEGARA v. KARAH BODAS Co., L. L. C.* C. A. 2d Cir. Motion of Republic of Indonesia for leave to file a brief as *amicus curiae* granted. Certiorari denied. Reported below: 500 F. 3d 111.

No. 07–931. *MAGNOLIA INDUSTRIAL FABRICATORS, INC., ET AL. v. DEVON LOUISIANA CORP. ET AL.* C. A. 5th Cir. Motion of Maritime Law Association of the United States for leave to file a brief as *amicus curiae* out of time denied. Certiorari denied. Reported below: 247 Fed. Appx. 539.

June 23, 2008

554 U. S.

No. 07–1178. HJORTNESS, A MINOR, BY AND THROUGH HIS PARENTS AND LEGAL GUARDIANS, HJORTNESS ET UX., ET AL. *v.* NEENAH JOINT SCHOOL DISTRICT. C. A. 7th Cir. Motions of Tourette Syndrome Association, Inc., and Autism Speaks for leave to file briefs as *amici curiae* granted. Certiorari denied. Reported below: 507 F. 3d 1060.

No. 07–1247. GOLDSTEIN ET AL. *v.* PATAKI ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 516 F. 3d 50.

Rehearing Denied

- No. 07–1025. ROGERS *v.* GEORGIA, 552 U. S. 1311;
No. 07–5658. TERRY *v.* UNITED STATES, 552 U. S. 926;
No. 07–8434. NICKLASSON *v.* ROPER, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER, 553 U. S. 1007;
No. 07–9048. YANEZ *v.* SCRIBNER, WARDEN, 552 U. S. 1299;
No. 07–9064. HARRIS, AKA HARRIS-BEY *v.* KILPATRICK ET AL., 552 U. S. 1299;
No. 07–9133. GARCIA *v.* UNITED STATES, 553 U. S. 1007;
No. 07–9166. CHILDS *v.* ORTIZ, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL., 552 U. S. 1316;
No. 07–9274. BROWN *v.* CHESNEY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT RETREAT, 552 U. S. 1319;
No. 07–9415. JONES *v.* QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 553 U. S. 1008;
No. 07–9496. IN RE GRIFFIN, 552 U. S. 1308;
No. 07–9524. THOMAS *v.* MONROE, 553 U. S. 1020;
No. 07–9676. IN RE YOUNG, 553 U. S. 1003;
No. 07–9700. STERLING *v.* STEELE, SUPERINTENDENT, SOUTHEAST CORRECTIONAL CENTER, 553 U. S. 1022;
No. 07–9907. YOUNG *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, 553 U. S. 1012;
No. 07–9920. STRUCK *v.* COOK COUNTY PUBLIC GUARDIAN, 553 U. S. 1023; and
No. 07–9945. NEAL *v.* UNITED STATES, 552 U. S. 1331. Petitions for rehearing denied.

No. 06–11616. FERNANDEZ *v.* UNITED STATES, 552 U. S. 854. Motion for leave to file petition for rehearing denied.

554 U.S.

June 25, 27, 2008

JUNE 25, 2008

Certiorari Denied

No. 07–11509 (07A1026). *YARBROUGH v. JOHNSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. JUSTICE STEVENS and JUSTICE GINSBURG would grant the application for stay of execution. Reported below: 520 F. 3d 329.

JUNE 27, 2008

Certiorari Granted—Vacated and Remanded

No. 06–1454. *SEMPRA GENERATION ET AL. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.*; and

No. 06–1468. *DYNERGY POWER MARKETING, INC., ET AL. v. PUBLIC UTILITIES COMMISSION OF CALIFORNIA ET AL.* C. A. 9th Cir. Certiorari granted, judgment vacated, and cases remanded for further consideration in light of *Morgan Stanley Capital Group Inc. v. Public Util. Dist. No. 1 of Snohomish Cty.*, ante, p. 527. THE CHIEF JUSTICE took no part in the consideration or decision of these petitions. Reported below: 474 F. 3d 587.

No. 07–8018. *YOUNGER v. CALIFORNIA*. Ct. App. Cal., 1st App. Dist. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Giles v. California*, ante, p. 353.

Miscellaneous Order

No. 07–1239. *WINTER, SECRETARY OF THE NAVY, ET AL. v. NATURAL RESOURCES DEFENSE COUNCIL, INC., ET AL.* C. A. 9th Cir. [Certiorari granted, ante, p. 916.] Motion of the Acting Solicitor General to calendar oral argument in October 2008 granted.

Certiorari Granted

No. 07–984. *COEUR ALASKA, INC. v. SOUTHEAST ALASKA CONSERVATION COUNCIL ET AL.*; and

No. 07–990. *ALASKA v. SOUTHEAST ALASKA CONSERVATION COUNCIL ET AL.* C. A. 9th Cir. Motion of Pacific Legal Founda-

June 27, July 1, 2008

554 U.S.

tion et al. for leave to file a brief as *amici curiae* in No. 07-990 granted. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. Reported below: 486 F. 3d 638.

No. 07-1315. KNOWLES, WARDEN *v.* MIRZAYANCE. C. A. 9th Cir. Certiorari granted.

Certiorari Denied

No. 06-1458. GEDDES ET UX., INDIVIDUALLY AND AS PARENTS AND GUARDIANS OF GEDDES, A MINOR CHILD *v.* UNITED STAFFING ALLIANCE EMPLOYEE MEDICAL PLAN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 469 F. 3d 919.

No. 07-257. CONTINENTAL CARBON CO. ET AL. *v.* ACTION MARINE, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 481 F. 3d 1302.

No. 07-335. PARKER ET AL. *v.* DISTRICT OF COLUMBIA ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 478 F. 3d 370.

No. 07-776. KELLY ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 276 Fed. Appx. 261.

No. 07-841. AMSCHWAND, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF AMSCHWAND *v.* SPHERION CORP. ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 505 F. 3d 342.

No. 07-891. ALEXANDER ET AL. *v.* BOSCH AUTOMOTIVE SYSTEMS, INC. C. A. 6th Cir. Certiorari denied. Reported below: 232 Fed. Appx. 491.

No. 07-8682. LEACHMAN *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 06-1521. GOERES *v.* CHARLES SCHWAB & CO. INC. ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 220 Fed. Appx. 663.

JULY 1, 2008

Certiorari Denied

No. 08-5020 (08A8). SCHWAB *v.* FLORIDA. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented

554 U.S.

July 1, 2, 10, 2008

to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 995 So. 2d 922.

JULY 2, 2008

Dismissal Under Rule 46

No. 07-1284. *MORALES v. JETT, WARDEN*. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 499 F. 3d 668.

Miscellaneous Order

No. 08A3. *DEAN ET AL. v. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS ET AL.* Application for stay of enforcement of the judgment of the United States Court of Appeals for the Fifth Circuit, presented to JUSTICE SCALIA, and by him referred to the Court, denied. JUSTICE BREYER took no part in the consideration or decision of this application.

JULY 10, 2008

Certiorari Denied

No. 08-5086 (08A19). *JACKSON v. JOHNSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS*. C. A. 4th Cir. Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. JUSTICE STEVENS and JUSTICE GINSBURG would grant the application for stay of execution. Reported below: 523 F. 3d 273.

No. 08-5164 (08A31). *TURNER v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

No. 08-5165 (08A32). *TURNER v. QUARTERMAN, 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 SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 284 Fed. Appx. 182.

No. 08-5214 (08A36). *JACKSON v. JOHNSON, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, ET AL.* C. A. 4th Cir.

July 10, 16, 17, 18, 23, 2008

554 U. S.

Application for stay of execution of sentence of death, presented to THE CHIEF JUSTICE, and by him referred to the Court, denied. Certiorari denied. Reported below: 523 F. 3d 273.

JULY 16, 2008

Dismissal Under Rule 46

No. 07-10741. HOLMES *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari dismissed under this Court's Rule 46. Reported below: 973 So. 2d 1140.

JULY 17, 2008

Dismissal Under Rule 46

No. 07-1432. SKOWRONEK *v.* AMERICAN STEAMSHIP CO. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 505 F. 3d 482.

JULY 18, 2008

Dismissal Under Rule 46

No. 07-10604. SALAZAR *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari dismissed under this Court's Rule 46.

JULY 23, 2008

Miscellaneous Order

No. 08A59. BISHOP *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied.

Certiorari Denied

No. 08-5359 (08A56). BISHOP *v.* MISSISSIPPI. Sup. Ct. Miss. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

No. 08-5392 (08A67). BISHOP *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir. Application for stay of execution of sentence of death, presented

554 U.S.

July 23, 28, 2008

to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 288 Fed. Appx. 146.

JULY 28, 2008

Miscellaneous Order

No. 07A963. STEWART *v.* SUPERIOR COURT OF CALIFORNIA, HUMBOLDT COUNTY, ET AL. Ct. App. Cal., 1st App. Dist. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

Rehearing Denied

No. 07–1102. CANAS ET UX., AS NATURAL GUARDIANS AND NEXT FRIENDS OF CANAS, ET AL. *v.* AL-JABI ET AL., 553 U.S. 1065;

No. 07–1113. PERSIK *v.* GROUP HEALTH COOPERATIVE INC. ET AL., 553 U.S. 1018;

No. 07–1131. IN RE SIMMONS, 553 U.S. 1031;

No. 07–1142. ARDITO *v.* NBC UNIVERSAL, INC., ET AL., 553 U.S. 1005;

No. 07–1168. JOHNSON *v.* GADSON ET AL., 553 U.S. 1053;

No. 07–1170. R AND J MURRAY, LLC *v.* MURRAY COUNTY, GEORGIA, ET AL., 553 U.S. 1053;

No. 07–1171. SAMMANN ET AL. *v.* MAYER ET AL., 553 U.S. 1033;

No. 07–1224. SHOWALTER *v.* ALBUQUERQUE TITLE Co., INC., ET AL., 553 U.S. 1066;

No. 07–1242. FERNANDES ET UX. *v.* SPARTA TOWNSHIP COUNCIL ET AL., 553 U.S. 1066;

No. 07–1297. POLL *v.* PAULSON, SECRETARY OF THE TREASURY, ET AL., 553 U.S. 1054;

No. 07–1313. CRAWFORD *v.* DEPARTMENT OF HOMELAND SECURITY ET AL., 553 U.S. 1054;

No. 07–1340. MARRO *v.* VIRGINIA ELECTRIC & POWER Co., 553 U.S. 1066;

No. 07–6455. DURMER *v.* ROGERS, ADMINISTRATOR, ADULT DIAGNOSTIC AND TREATMENT CENTER, ET AL., 552 U.S. 1026;

No. 07–8752. THEER *v.* NORTH CAROLINA, 553 U.S. 1055;

No. 07–8937. GATLIN *v.* UNITED STATES, 553 U.S. 1067;

No. 07–9016. FRANKLIN *v.* ROPER, SUPERINTENDENT, POTOSI CORRECTIONAL CENTER, 553 U.S. 1067;

July 28, 2008

554 U. S.

No. 07-9127. *HAHN v. QUARTERMAN*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 552 U. S. 1315;

No. 07-9150. *MARSHALL v. JOHNSON*, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, 552 U. S. 1316;

No. 07-9429. *HURTADO v. UNITED STATES*, 553 U. S. 1094;

No. 07-9436. *MERRIWEATHER v. FREDRICK ET AL.*, 553 U. S. 1008;

No. 07-9503. *CHERRY v. JOHNSON*, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, 553 U. S. 1009;

No. 07-9566. *COCHRANE v. BURTT, WARDEN, ET AL.*, 553 U. S. 1021;

No. 07-9615. *OGHENESORO v. MUKASEY*, ATTORNEY GENERAL, 553 U. S. 1009;

No. 07-9650. *OLIVER v. LONG ET AL.*, 553 U. S. 1036;

No. 07-9682. *ROSALES v. QUARTERMAN*, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 553 U. S. 1036;

No. 07-9722. *FIELDING v. PATRICK*, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HOUTZDALE, ET AL., 553 U. S. 1022;

No. 07-9758. *STRUCK v. HARRIS* (two judgments), 553 U. S. 1038;

No. 07-9832. *HALEY v. MISSOURI ET AL.*, 553 U. S. 1022;

No. 07-9854. *SAN PEDRO v. MCNEIL*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., 553 U. S. 1023;

No. 07-9896. *WILLIAMS v. HAWS*, WARDEN, 553 U. S. 1056;

No. 07-10003. *MESSIER v. UNITED STATES*, 553 U. S. 1013;

No. 07-10045. *FORBES v. FLORIDA*, 553 U. S. 1069;

No. 07-10046. *IMLER v. CENTRAL MUTUAL INSURANCE CO. ET AL.*, 553 U. S. 1069;

No. 07-10062. *IN RE ADAMS*, 553 U. S. 1064;

No. 07-10065. *LINH BAO v. HOUSTON*, DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES, 553 U. S. 1041;

No. 07-10070. *IN RE DADE*, 553 U. S. 1017;

No. 07-10084. *IN RE STONIER*, 553 U. S. 1017;

No. 07-10086. *GERA v. CORBETT*, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL., 553 U. S. 1070;

No. 07-10094. *WARE v. MICHIGAN DEPARTMENT OF LABOR ET AL.*, 553 U. S. 1070;

554 U.S.

July 28, 2008

No. 07–10096. *CENSKE v. CLINTON COUNTY SHERIFF’S DEPARTMENT ET AL.*, 553 U.S. 1071;

No. 07–10109. *WARLICK v. FLORIDA*, 553 U.S. 1041;

No. 07–10110. *WARLICK v. FLORIDA*, 553 U.S. 1041;

No. 07–10127. *HERSHFELDT v. SCHRIRO*, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL., 553 U.S. 1071;

No. 07–10180. *WOODS v. WILLIAMS & SONS PLUMBING & HEATING INC. ET AL.*, 553 U.S. 1059;

No. 07–10237. *LENTWORTH v. POTTER ET AL.*, 553 U.S. 1059;

No. 07–10242. *GOODLEY v. TEXAS*, 553 U.S. 1071;

No. 07–10299. *BROWN v. DONALD*, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL., 553 U.S. 1044;

No. 07–10318. *MENDEZ v. UNITED STATES*, 553 U.S. 1044;

No. 07–10331. *NEWSON v. BOWERSOX*, SUPERINTENDENT, SOUTH CENTRAL CORRECTIONAL FACILITY, 553 U.S. 1059;

No. 07–10386. *MARTINEZ v. UNITED STATES*, 553 U.S. 1046;

No. 07–10405. *PENLAND v. UNITED STATES*, 553 U.S. 1059;

No. 07–10414. *AWALA v. UNITED STATES*, 553 U.S. 1047;

No. 07–10418. *BEA v. JOHNSON*, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, *ante*, p. 906;

No. 07–10471. *PETTIES v. NEW YORK CITY HOUSING AUTHORITY*, 553 U.S. 1098;

No. 07–10476. *MARTIN v. ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY ET AL.*, 553 U.S. 1085;

No. 07–10542. *CURBELO v. UNITED STATES*, 553 U.S. 1073;

No. 07–10574. *SMITH v. SDI INDUSTRIES, INC.*, 553 U.S. 1074;

No. 07–10753. *OSAMOR v. UNITED STATES*, 553 U.S. 1090;

No. 07–10787. *THOMPSON v. UNITED STATES*, 553 U.S. 1090; and

No. 07–10900. *MITCHELL v. UNITED STATES*, 553 U.S. 1101. Petitions for rehearing denied.

No. 07–9250. *RECHANIK v. MICROSOFT CORP.*, 553 U.S. 1048. Petition for rehearing denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

No. 07–10621. *IN RE HADIX*, 553 U.S. 1053. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 06–1659. *YOUNG v. UNITED STATES* (two judgments), 552 U.S. 823; and

July 28, August 1, 7, 14, 18, 2008

554 U. S.

No. 07-9480. *JENKINS v. SUNCOAST CONSTRUCTION GROUP ET AL.*, 553 U.S. 1009. Motions for leave to file petitions for rehearing denied.

AUGUST 1, 2008

Dismissal Under Rule 46

No. 07-1100. *CIENEGA GARDENS ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 503 F. 3d 1266.

AUGUST 7, 2008

Certiorari Denied

No. 08-5652 (08A112). *CHI v. TEXAS*. Ct. Crim. App. Tex. Application for stay of execution of sentence of death, presented to JUSTICE SCALIA, and by him referred to the Court, denied. Certiorari denied.

AUGUST 14, 2008

Dismissal Under Rule 46

No. 07-1101. *CHANCELLOR MANOR ET AL. v. UNITED STATES*. C. A. Fed. Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 503 F. 3d 1266.

AUGUST 18, 2008

Miscellaneous Orders

No. 07-526. *CARCIERI, GOVERNOR OF RHODE ISLAND, ET AL. v. KEMPTHORNE, SECRETARY OF THE INTERIOR, ET AL.* C. A. 1st Cir. [Certiorari granted, 552 U.S. 1229.] Motion of Citizens Equal Rights Foundation et al. for leave to file a brief as *amici curiae* out of time granted.

No. 07-562. *ALTRIA GROUP, INC., ET AL. v. GOOD ET AL.* C. A. 1st Cir. [Certiorari granted, 552 U.S. 1162.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 07-665. *PLEASANT GROVE CITY, UTAH, ET AL. v. SUMMUM*. C. A. 10th Cir. [Certiorari granted, 552 U.S. 1294.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

554 U.S.

August 18, 2008

No. 07-689. BARTLETT, EXECUTIVE DIRECTOR OF NORTH CAROLINA STATE BOARD OF ELECTIONS, ET AL. *v.* STRICKLAND ET AL. Sup. Ct. N. C. [Certiorari granted, 552 U.S. 1256.] Motion of National Association for the Advancement of Colored People et al. for leave to file a brief as *amici curiae* out of time granted.

No. 07-751. PEARSON ET AL. *v.* CALLAHAN. C. A. 10th Cir. [Certiorari granted, 552 U.S. 1279.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Rehearing Denied

No. 06-1666. MUNAF ET AL. *v.* GEREN, SECRETARY OF THE ARMY, ET AL., 553 U.S. 674;

No. 07-394. GEREN, SECRETARY OF THE ARMY, ET AL. *v.* OMAR ET AL., NEXT FRIENDS OF OMAR, 553 U.S. 674;

No. 07-1117. THOMAS *v.* TRICO PRODUCTS CORP. ET AL., 553 U.S. 1079;

No. 07-1194. HENLEY *v.* BELL, WARDEN, *ante*, p. 918;

No. 07-1198. SPLITTORFF *v.* AIGNER ET AL., 553 U.S. 1065;

No. 07-1278. DAHLQUIST *v.* VUKICH, *ante*, p. 903;

No. 07-1312. ROSA *v.* CALIFORNIA ET AL., *ante*, p. 904;

No. 07-1314. KIM *v.* WASHINGTON STATE DEPARTMENT OF LICENSING, *ante*, p. 904;

No. 07-1332. WARE ET AL. *v.* FEDERAL HIGHWAY ADMINISTRATION ET AL., *ante*, p. 919;

No. 07-1373. GLENMONT HILLS ASSOCIATES PRIVACY WORLD AT GLENMONT METRO CENTRE *v.* MONTGOMERY COUNTY, MARYLAND, 553 U.S. 1102;

No. 07-7834. TERRY ET AL. *v.* UNITED STATES, *ante*, p. 921;

No. 07-9673. SIMEONE *v.* DIGUGLIELMO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL., 553 U.S. 1036;

No. 07-9778. LANG *v.* HAMLET, WARDEN, 553 U.S. 1038;

No. 07-9990. WILMS *v.* FINNAN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY, 553 U.S. 1068;

No. 07-10019. GUINN *v.* QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, 553 U.S. 1069;

August 18, 20, 2008

554 U. S.

No. 07-10054. *WISE v. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA*; and *WISE v. SOUTH CAROLINA DEPARTMENT OF CORRECTIONS ET AL.*, 553 U. S. 1070;

No. 07-10122. *CALDWELL v. QUARTERMAN, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION*, 553 U. S. 1081;

No. 07-10156. *PARADISE v. GEORGIA*, 553 U. S. 1082;

No. 07-10187. *BRIGHT v. WRIGHT, WARDEN*, 553 U. S. 1083;

No. 07-10203. *SHANKLIN v. ORTIZ, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS, ET AL.*, 553 U. S. 1042;

No. 07-10205. *SMITH v. VIRGINIA*, 553 U. S. 1059;

No. 07-10211. *ZHENLU ZHANG v. SCIENCE & TECHNOLOGY CORP. ET AL.*, 553 U. S. 1095;

No. 07-10247. *CALLIGAN v. WILSON, SUPERINTENDENT, WESTVILLE CORRECTIONAL FACILITY*, 553 U. S. 1095;

No. 07-10306. *COMIER v. SCHRIRO, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL.*, 553 U. S. 1084;

No. 07-10361. *VANDERWALL v. VIRGINIA*, *ante*, p. 906;

No. 07-10407. *CORNET v. FLORIDA*, *ante*, p. 906;

No. 07-10425. *GIBBS v. MINNER, GOVERNOR OF DELAWARE, ET AL.*, *ante*, p. 906;

No. 07-10451. *DUNLAP v. GREEN ET AL.*, *ante*, p. 923;

No. 07-10455. *MCCREARY v. BIRKETT, WARDEN, ET AL.*, *ante*, p. 923;

No. 07-10575. *TAVAREZ v. MARSHALL, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY*, 553 U. S. 1098;

No. 07-10783. *SCHILS v. WASHTENAW COMMUNITY HEALTH ORGANIZATION*, 553 U. S. 1098;

No. 07-10870. *YORK v. SOUTH CAROLINA ET AL.*, *ante*, p. 926; and

No. 07-10922. *MANNING v. POTTER, POSTMASTER GENERAL*, *ante*, p. 926. Petitions for rehearing denied.

AUGUST 20, 2008

Dismissal Under Rule 46

No. 08-5242. *HARRELL v. UNITED STATES*. C. A. 11th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 524 F. 3d 1223.

554 U.S. August 26, 28, September 5, 2008

AUGUST 26, 2008

Dismissal Under Rule 46

No. 08–172. STRYKER CORP. ET AL. *v.* ACUMED LLC. C. A. Fed. Cir. Certiorari dismissed under this Court’s Rule 46.1. Reported below: 525 F. 3d 1319.

AUGUST 28, 2008

Dismissal Under Rule 46

No. 07–1556. OLTMAN, INDIVIDUALLY AND AS EXECUTOR OF THE ESTATE OF OLTMAN, DECEASED, ET AL. *v.* HOLLAND AMERICA LINE USA, INC., ET AL. Sup. Ct. Wash. Certiorari dismissed under this Court’s Rule 46.1. Reported below: 163 Wash. 2d 236, 178 P. 3d 981.

SEPTEMBER 5, 2008

Miscellaneous Orders

No. 07–542. ARIZONA *v.* GANT. Sup. Ct. Ariz. [Certiorari granted, 552 U.S. 1230.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 07–544. HEDGPETH, WARDEN *v.* PULIDO. C. A. 9th Cir. [Certiorari granted *sub nom. Chrones v. Pulido*, 552 U.S. 1230.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 07–581. 14 PENN PLAZA LLC ET AL. *v.* PYETT ET AL. C. A. 2d Cir. [Certiorari granted, 552 U.S. 1178.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 07–610. LOCKE ET AL. *v.* KARASS, STATE CONTROLLER, ET AL. C. A. 1st Cir. [Certiorari granted, 552 U.S. 1178.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 07–636. KENNEDY, EXECUTRIX OF THE ESTATE OF KENNEDY, DECEASED *v.* PLAN ADMINISTRATOR FOR DUPONT SAVINGS AND INVESTMENT PLAN ET AL. C. A. 5th Cir. [Certiorari

September 5, 8, 2008

554 U. S.

granted, 552 U. S. 1178.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of American Benefits Council et al. for leave to file a brief as *amici curiae* granted.

No. 07–854. VAN DE KAMP ET AL. *v.* GOLDSTEIN. C. A. 9th Cir. [Certiorari granted, 552 U. S. 1309.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Rehearing Denied

No. 07–1326. CHI-MING CHOW *v.* MICHIGAN ATTORNEY GRIEVANCE COMMISSION, *ante*, p. 919;

No. 07–1343. DIBBS *v.* ROLDAN ET AL., *ante*, p. 919;

No. 07–1406. WAGSTAFF *v.* DEPARTMENT OF EDUCATION, *ante*, p. 904;

No. 07–9697. KELLEY *v.* FLORIDA, *ante*, p. 922;

No. 07–10144. FLUKER *v.* CALIFORNIA ET AL., 553 U. S. 1081;

No. 07–10324. BARDWELL *v.* BARDWELL, 553 U. S. 1097;

No. 07–10351. ROBINSON *v.* ARIZONA ET AL., 553 U. S. 1097;

No. 07–10710. GILYARD *v.* ACEVEDO, WARDEN, 553 U. S. 1088;

No. 07–10719. TAYLOR *v.* HUMPHREYS, WARDEN, *ante*, p. 925;

No. 07–10835. MEYER *v.* BRANKER, WARDEN, *ante*, p. 925;

No. 07–10839. IRVIN *v.* UNITED STATES, 553 U. S. 1100;

No. 07–10959. HOWTON *v.* UNITED STATES, *ante*, p. 908; and

No. 07–11091. HAILEY *v.* ASTRUE, COMMISSIONER OF SOCIAL SECURITY, *ante*, p. 928. Petitions for rehearing denied.

No. 07–10049. IN RE DAVIS, 553 U. S. 1064. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

SEPTEMBER 8, 2008

Miscellaneous Order

No. 07–343. KENNEDY *v.* LOUISIANA, *ante*, p. 407. Petitioner Patrick Kennedy is invited to file a supplemental brief, not to exceed 4,500 words, addressing not only whether rehearing should be granted but also the merits of the issue raised in the petition for rehearing. Brief should be filed with the Clerk and served upon opposing counsel by 2 p.m. Wednesday, September 17, 2008. The Acting Solicitor General is invited to file at the same time a brief, not to exceed 2,500 words, expressing the views of the United States. Respondent Louisiana is invited to file a supple-

554 U.S.

September 8, 16, 23, 2008

mental brief, not to exceed 4,500 words, also addressing the merits of the issue raised in the petition for rehearing. Brief should be filed with the Clerk and served upon opposing counsel by 2 p.m. Wednesday, September 24, 2008.

SEPTEMBER 16, 2008

Certiorari Denied

No. 08–6260 (08A229). *ALDERMAN v. DONALD*, COMMISSIONER, GEORGIA 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: 293 Fed. Appx. 693.

No. 08–6288 (08A230). *ALDERMAN v. GEORGIA*. Sup. Ct. Chatham County, Ga. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied.

SEPTEMBER 23, 2008

Dismissal Under Rule 46

No. 08–132. *FLORIDA v. JOHNSON*. Sup. Ct. Fla. Certiorari dismissed under this Court's Rule 46. Reported below: 982 So. 2d 672.

Miscellaneous Orders

No. 08A255. *HENYARD v. MCNEIL*, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied.

No. 08–66 (08A241). *DAVIS v. GEORGIA*. Sup. Ct. Ga. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, granted pending disposition of the 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 issuance of the mandate of this Court.

Certiorari Denied

No. 08–6392 (08A248). *HENYARD v. FLORIDA*. Sup. Ct. Fla. Application for stay of execution of sentence of death, presented

September 23, 26, 29, October 1, 2008 554 U. S.

to JUSTICE THOMAS, and by him referred to the Court, denied. Certiorari denied. Reported below: 992 So. 2d 120.

SEPTEMBER 26, 2008

Dismissal Under Rule 46

No. 07-1402. NATION *v.* WISCONSIN. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 512 F. 3d 921.

SEPTEMBER 29, 2008

Dismissal Under Rule 46

No. 08-5497. GUERRERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 250 Fed. Appx. 18.

OCTOBER 1, 2008

Miscellaneous Order

No. 07-689. BARTLETT, EXECUTIVE DIRECTOR OF NORTH CAROLINA STATE BOARD OF ELECTIONS, ET AL. *v.* STRICKLAND ET AL. Sup. Ct. N. C. [Certiorari granted, 552 U. S. 1256.] Motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Certiorari Granted

No. 07-1309. BOYLE *v.* UNITED STATES. C. A. 2d Cir. Certiorari granted. Reported below: 283 Fed. Appx. 825.

No. 07-1372. HAWAII ET AL. *v.* OFFICE OF HAWAIIAN AFFAIRS ET AL. Sup. Ct. Haw. Certiorari granted. Reported below: 117 Haw. 174, 177 P. 3d 884.

No. 07-1410. UNITED STATES *v.* NAVAJO NATION. C. A. Fed. Cir. Certiorari granted. Reported below: 501 F. 3d 1327.

No. 07-1529. MONTEJO *v.* LOUISIANA. Sup. Ct. La. Certiorari granted. Reported below: 974 So. 2d 1238.

No. 07-1356. KANSAS *v.* VENTRIS. Sup. Ct. Kan. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 285 Kan. 595, 176 P. 3d 920.

554 U.S.

October 1, 2008

No. 07-1601. BURLINGTON NORTHERN & SANTA FE RAILWAY CO. ET AL. *v.* UNITED STATES ET AL.; and

No. 07-1607. SHELL OIL CO. *v.* UNITED STATES ET AL. C. A. 9th Cir. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. Reported below: 520 F. 3d 918.

No. 07-9712. PUCKETT *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following question: “Whether a forfeited claim that the government breached a plea agreement is subject to the plain-error standard of Federal Rule of Criminal Procedure 52(b).” Reported below: 505 F. 3d 377.

No. 07-9995. RIVERA *v.* ILLINOIS. Sup. Ct. Ill. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 227 Ill. 2d 1, 879 N. E. 2d 876.

No. 07-10441. CORLEY *v.* UNITED STATES. C. A. 3d Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 500 F. 3d 210.

No. 08-88. VERMONT *v.* BRILLON. Sup. Ct. Vt. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 183 Vt. 475, 955 A. 2d 1108.

Rehearing Denied

No. 07-343. KENNEDY *v.* LOUISIANA, *ante*, p. 407. The opinion of the Court is modified by the addition of a footnote at page 426, after the word “considered” in the last paragraph of Part III–A. The footnote is as follows:

*When issued and announced on June 25, 2008, the Court’s decision neither noted nor discussed the military penalty for rape under the Uniform Code of Military Justice. See 10 U.S.C. §§856 (2000 ed.), 920 (2000 ed. and Supp. V); Manual for Courts-Martial, United States, Part IV, Art. 120, ¶45.f(1), p. IV-78 (2008). In a petition for rehearing respondent argues that the military penalty bears on our consideration of the question in this case. For the reasons set forth in the statement respecting the denial of rehearing, *post*, p. 946, we find that the military penalty does not affect our reasoning or conclusions.

The dissenting opinion is modified as follows:

Statement of KENNEDY, J.

554 U. S.

(1) By the addition of the words “a federal district court to impose” at page 459 between the words “a law permitting” and the words “the death penalty” in the first paragraph of Part I–E;

(2) By the addition of footnote 6 after the word “values” in said paragraph. The footnote is as follows:

⁶Moreover, as noted in the petition for rehearing, the Uniform Code of Military Justice permits such a sentence. See 10 U. S. C. § 856 (2000 ed.); Manual for Courts-Martial, United States, Part II, Ch. X, Rule 1004(c)(9), p. II–131 (2008); *id.*, Part IV, Art. 120, ¶ 45.f(1), p. IV–78.

Petition for rehearing denied.

JUSTICE THOMAS and JUSTICE ALITO would grant the petition for rehearing.

Statement of JUSTICE KENNEDY, with whom JUSTICE STEVENS, JUSTICE SOUTER, JUSTICE GINSBURG, and JUSTICE BREYER join, respecting the denial of rehearing.

In its petition for rehearing respondent argues that the military penalty for rape, a congressional amendment of the Uniform Code of Military Justice (UCMJ) in 2006, and a related Executive Order in 2007 should alter the Court’s analysis of the Eighth Amendment question in this case. After considering the petition as well as supplemental briefs from the parties and the United States, the Court has determined that rehearing is not warranted.

The military death penalty for rape has been the rule for more than a century. As respondent acknowledges in its petition for rehearing, military law has included the death penalty for rape of a child or adult victim since at least 1863. See § 30, 12 Stat. 736. Since 1950, that punishment has applied to peacetime offenses by members of the military. See Art. 120, 64 Stat. 140. The death penalty, however, has not been carried out against a military offender for almost 50 years. The last instance of military capital punishment, in 1961, was for the crimes of rape and attempted murder. See R. Paternoster, R. Brame, & S. Bacon, *The Death Penalty: America’s Experience with Capital Punishment* 69 (2008). There are six individuals now subject to a final sentence of death under the UCMJ, see NAACP Legal Defense and Educational Fund, Inc., *Death Row U. S. A.* 66 (Winter 2008), all of whom committed offenses that involved the death of a victim.

In 2006, Congress passed the National Defense Authorization Act, which authorized that year's appropriations for military and national-security activities. Pub. L. 109–163. Also in that bill, Congress revised the military's sexual-assault statutes, in part by reclassifying the UCMJ's offense of rape as two separate crimes: adult rape and child rape. §552(a)(1), 119 Stat. 3257. It is unclear what effect, if any, that reclassification worked on the availability of the military death penalty. Pending the President's setting the maximum penalty for adult rape and child rape, Congress included a temporary provision applying the existing maximum punishment of death for rape as the "interim maximum punishment[t]" for those crimes. §552(b)(1), *id.*, at 3263; see also 10 U.S.C. §856. But Congress also removed from the text of the statute itself, §920, the specific authorization of "death" as a punishment; the new statute provides only that adult rape and child rape shall be punished "as a court-martial may direct." For his part, the President later left in place, in the Manual for Courts-Martial, the availability of the death penalty for rape of an adult or child victim. Exec. Order No. 13447, 72 Fed. Reg. 56214 (2007); Manual for Courts-Martial, United States, Part IV, ¶45.f(1) (2008). The parties disagree on the effect of Congress' and the President's actions in light of 10 U.S.C. §818, which allows imposition of the death penalty only "when specifically authorized by this chapter."

In any event, authorization of the death penalty in the military sphere does not indicate that the penalty is constitutional in the civilian context. The military death penalty for rape was in effect before the decisions in *Furman v. Georgia*, 408 U.S. 238 (1972) (*per curiam*), and *Coker v. Georgia*, 433 U.S. 584 (1977); and when the Court surveyed state and federal law in *Coker*, it made no mention of the military penalty, see *id.*, at 595–596, 593, and n. 6 (plurality opinion) (not including the military as a "jurisdiction in the United States" that authorized the death penalty for rape, and naming the Federal Government among jurisdictions that recognized the death penalty for rape prior to *Furman* but citing only the nonmilitary provision). The same is true of more recent Eighth Amendment cases in the civilian context. See *Enmund v. Florida*, 458 U.S. 782, 789–793 (1982); *Tison v. Arizona*, 481 U.S. 137, 152–154 (1987). This case, too, involves the application of the Eighth Amendment to civilian law; and so we need not decide whether certain considerations might justify

differences in the application of the Cruel and Unusual Punishments Clause to military cases (a matter not presented here for our decision). Cf. *Loving v. United States*, 517 U.S. 748, 755 (1996).

That the Manual for Courts-Martial retains the death penalty for rape of a child or an adult when committed by a member of the military does not draw into question our conclusions that there is a consensus against the death penalty for the crime in the civilian context and that the penalty here is unconstitutional. The laws of the separate States, which have responsibility for the administration of the criminal law for their civilian populations, are entitled to considerable weight over and above the punishments Congress and the President consider appropriate in the military context. The more relevant federal benchmark is federal criminal law that applies to civilians, and that law does not permit the death penalty for child rape. Until the petition for rehearing, none of the briefs or submissions filed by the parties or the *amici* in this case cited or discussed the UCMJ provisions.

Statement of JUSTICE SCALIA, with whom THE CHIEF JUSTICE joins, respecting the denial of rehearing.

Respondent has moved for rehearing of this case because there has come to light a federal statute enacted in 2006 permitting the death sentence under the Uniform Code of Military Justice for rape of a minor. See Pub. L. 109–163, § 552(b)(1), 119 Stat. 3263. This provision was not cited by either party, nor by any of the numerous *amici* in the case; it was first brought to the Court’s attention after the opinion had issued, in a letter signed by 85 Members of Congress. Respondent asserts that rehearing is justified because this statute calls into question the majority opinion’s conclusion that there is a national consensus against capital punishment for rape of a child.

I am voting against the petition for rehearing because the views of the American people on the death penalty for child rape were, to tell the truth, irrelevant to the majority’s decision in this case. The majority opinion, after an unpersuasive attempt to show that a consensus against the penalty existed, in the end came down to this: “[T]he Constitution contemplates that in the end our own judgment will be brought to bear on the question of the acceptability of the death penalty under the Eighth Amendment.” *Ante*, at 434. Of course the Constitution contemplates no such

thing; the proposed Eighth Amendment would have been laughed to scorn if it had read “no criminal penalty shall be imposed which the Supreme Court deems unacceptable.” But that is what the majority opinion said, and there is no reason to believe that absence of a national consensus would provoke second thoughts.

While the new evidence of American opinion is ultimately irrelevant to the majority’s decision, let there be no doubt that it utterly destroys the majority’s claim to be discerning a national consensus and not just giving effect to the majority’s own preference. As noted in the letter from Members of Congress, the bill providing the death penalty for child rape passed the Senate 95–0; it passed the House 374–41, with the votes of a majority of each State’s delegation; and was signed by the President. JUSTICE KENNEDY’s statement posits two reasons why this Act by Congress proves nothing about the national consensus regarding permissible penalties for child rape. First, it claims the statute merely “reclassif[ied]” the offense of child rape. *Ante*, at 947. But the law did more than that; it specifically *established* (as it would have to do) the penalty for the *new offense* of child rape—and that penalty was death: “For an offense under subsection (a) (rape) or subsection (b) (rape of a child), *death or such other punishment as a court-martial may direct.*” § 552(b)(1), 119 Stat. 3263 (emphasis added). By separate executive order, the President later expressly reauthorized the death penalty as a punishment for child rape. Exec. Order No. 13447, 72 Fed. Reg. 56214 (2007). Based on these acts, there is infinitely more reason to think that Congress and the President made a judgment regarding the appropriateness of the death penalty for child rape than there is to think that the many *non-enacting* state legislatures upon which the majority relies did so—especially since it was widely believed that *Coker* took the capital-punishment option off the table. See *Coker v. Georgia*, 433 U. S. 584 (1977).

Second, JUSTICE KENNEDY speculates that the Eighth Amendment may permit subjecting a member of the military to a means of punishment that would be cruel and unusual if inflicted upon a civilian for the same crime. That is perhaps so where the fact of the malefactor’s membership in the Armed Forces makes the offense more grievous. One can imagine, for example, a social judgment that treason by a military officer who has sworn to defend his country deserves the death penalty even though treason by a civilian does not. (That is not the social judgment our

October 1, 3, 2008

554 U. S.

society has made, see 18 U. S. C. §2381, but one can imagine it.) It is difficult to imagine, however, how rape of a child could sometimes be deserving of death for a soldier but never for a civilian.

OCTOBER 3, 2008

Dismissal Under Rule 46

No. 07-811. MORRIS ET AL. *v.* CENTER FOR BIO-ETHICAL REFORM, INC., ET AL. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 477 F. 3d 807.