UNITED STATES

REPORTS

571

OCT. TERM 2013

UNITED STATES REPORTS

VOLUME 571

CASES ADJUDGED

IN

THE SUPREME COURT

AT

OCTOBER TERM, 2013

BEGINNING OF TERM

OCTOBER 7, 2013, THROUGH MARCH 4, 2014

CHRISTINE LUCHOK FALLON

REPORTER OF DECISIONS

WASHINGTON : 2019

Printed on Uncoated Permanent Printing Paper

For sale by the Superintendent of Documents, U. S. Government Publishing Office

Errata

247 U. S. 288, caption: "JEFERSON" should be "JEFFERSON".
568 U. S. 63, lines 19–20: "384 *I*, U. S. 312" should be "384 U. S. 312".
568 U. S. 242, last two lines: "performnance" should be "performance".
568 U. S. 287, line 28: "563 U. S. 171" should be "563 U. S. 170".

JUSTICES

OF THE

SUPREME COURT

DURING THE TIME OF THESE REPORTS

JOHN G. ROBERTS, JR., CHIEF JUSTICE.
ANTONIN SCALIA, ASSOCIATE JUSTICE.
ANTHONY M. KENNEDY, ASSOCIATE JUSTICE.
CLARENCE THOMAS, ASSOCIATE JUSTICE.
RUTH BADER GINSBURG, ASSOCIATE JUSTICE.
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SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE.
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SANDRA DAY O'CONNOR, ASSOCIATE JUSTICE.
DAVID H. SOUTER, ASSOCIATE JUSTICE.

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SCOTT S. HARRIS, CLERK.*
CHRISTINE LUCHOK FALLON, REPORTER OF DECISIONS.
PAMELA TALKIN, MARSHAL.
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*See *post*, p. v.

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 September 28, 2010, 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, Antonin Scalia, Associate Justice.

For the Sixth Circuit, Elena Kagan, Associate Justice.

For the Seventh Circuit, Elena Kagan, Associate Justice.

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

For the Ninth Circuit, Anthony M. Kennedy, 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.

September 28, 2010.

(For next previous allotment, see 561 U. S., p. vi.)

APPOINTMENT OF CLERK OF THE COURT

Supreme Court of the United States

MONDAY, OCTOBER 7, 2013

Present: Chief Justice Roberts, Justice Scalia, Justice Kennedy, Justice Thomas, Justice Ginsburg, Justice Breyer, Justice Alito, Justice Sotomayor, and Justice Kagan.

The Chief Justice said:

I am pleased to announce that the Court has appointed Scott Harris as the new Clerk of the Court. For the past 11 years Mr. Harris has served as the Court's Legal Counsel, providing us with indispensable support on a variety of issues. We wish Mr. Harris well in his service as the 20th Clerk of the Court.

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CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 2013

MADIGAN ET AL. *v.* LEVIN

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

No. 12–872. Argued October 7, 2013—Decided October 15, 2013
Certiorari dismissed. Reported below: 692 F. 3d 607.

Michael A. Scodro, Solicitor General of Illinois, argued the cause for petitioners. With him on the briefs were *Lisa Madigan*, Attorney General, *pro se*, *Jane Elinor Notz*, Deputy Solicitor General, and *Brett E. Legner*, *Clifford W. Berlow*, and *Matthew P. Becker*, Assistant Attorneys General.

Edward Theobald argued the cause for respondent. With him on the brief were *Eric Schnapper* and *Harvey N. Levin*.*

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*Briefs of *amici curiae* urging reversal were filed for the State of Michigan et al. by *Bill Schuette*, Attorney General of Michigan, *John J. Bursch*, Solicitor General, and *Matthew T. Nelson* and *Nicole L. Mazzocco*, Special Assistant Attorneys General, and by the Attorneys General for their respective jurisdictions as follows: *Luther Strange* of Alabama, *Michael C. Geraghty* of Alaska, *Dustin McDaniel* of Arkansas, *John W. Suthers* of Colorado, *Irvin B. Nathan* of the District of Columbia, *Samuel S. Olens* of Georgia, *David M. Louie* of Hawaii, *Lawrence G. Wasden* of Idaho, *Gregory F. Zoeller* of Indiana, *Derek Schmidt* of Kansas, *Douglas F. Gansler* of Maryland, *Jim Hood* of Mississippi, *Jon Bruning* of Nebraska,

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

It is so ordered.

Joseph A. Foster of New Hampshire, *Wayne Stenehjem* of North Dakota, *Robert E. Cooper, Jr.*, of Tennessee, *Greg Abbott* of Texas, *John E. Swallow* of Utah, *Robert W. Ferguson* of Washington, and *J. B. Van Hollen* of Wisconsin; for the International Municipal Lawyers Association et al. by *Brian J. Murray*; and for the National School Boards Association et al. by *Francisco M. Negrón, Jr.*, and *Robert J. Sniffen.*

Briefs of *amici curiae* urging affirmance were filed for AARP et al. by *Thomas Osborne*, *Daniel Kohrman*, *Laurie McCann*, and *Melvin Radowitz*; for the American Federation of Labor and Congress of Industrial Organizations et al. by *Lynn K. Rhinehart*, *Harold C. Becker*, *James B. Coppess*, *Matthew J. Ginsburg,* and *Judith A. Scott*; for Law Professors by *Stephen I. Vladeck*, *pro se*, and *Charles S. Sims*; and for the National Education Association by *Alice O'Brien* and *Philip A. Hostak.*

Syllabus

STANTON *v.* SIMS

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

No. 12–1217. Decided November 4, 2013

Officer Stanton responded to a call about a disturbance in La Mesa, California. When Stanton arrived, he saw Nicholas Patrick cross the street in front of his patrol car and move quickly toward a residence. Stanton found the behavior suspicious, so he exited his car, called out "police," and ordered Patrick to stop. Patrick looked at Stanton, ignored the order, and went through the front gate of a fence enclosing a nearby yard. Believing Patrick had committed a jailable misdemeanor by disobeying the order, Stanton kicked open the gate in pursuit of Patrick. Unbeknownst to Stanton, respondent Drendolyn Sims—the owner of the fenced property—was standing behind the gate when it flew open. The gate struck Sims, injuring her.

Sims filed suit under 42 U. S. C. § 1983, alleging that Stanton unreasonably searched her home without a warrant in violation of the Fourth Amendment. The District Court held that Stanton was entitled to qualified immunity. The United States Court of Appeals for the Ninth Circuit reversed. The court reasoned that, under clearly established law, Stanton's pursuit of Patrick did not justify warrantless entry into Sims' yard because Patrick was suspected of only a misdemeanor.

Held: Stanton is entitled to qualified immunity. Federal and state courts nationwide are divided on the question whether an officer with probable cause to arrest a suspect for a misdemeanor may enter a home without a warrant while in hot pursuit of that suspect. Notwithstanding the disagreement, the Ninth Circuit denied Stanton qualified immunity, relying on one decision from this Court, *Welsh* v. *Wisconsin*, 466 U. S. 740, and one from the Ninth Circuit, *United States* v. *Johnson*, 256 F. 3d 895. These cases do not clearly establish that Stanton violated Sims' Fourth Amendment rights because neither involved hot pursuit. In addition, two California courts have stated that *Welsh* does not prohibit police from entering a house without a warrant when in hot pursuit of a person suspected of a misdemeanor. Two districts courts in the Ninth Circuit have also held that *Johnson* did not clearly establish that warrantless entry in hot pursuit of a fleeing misdemeanant violates the Fourth Amendment. In light of these decisions and the nationwide split, the Ninth Circuit was wrong to deny Stanton qualified immunity.

Certiorari granted; 706 F. 3d 954, reversed and remanded.

PER CURIAM.

Around one o'clock in the morning on May 27, 2008, Officer Mike Stanton and his partner responded to a call about an "unknown disturbance" involving a person with a baseball bat in La Mesa, California. App. to Pet. for Cert. 6. Stanton was familiar with the neighborhood, known for "violence associated with the area gangs." *Ibid.* The officers—wearing uniforms and driving a marked police vehicle—approached the place where the disturbance had been reported and noticed three men walking in the street. Upon seeing the police car, two of the men turned into a nearby apartment complex. The third, Nicholas Patrick, crossed the street about 25 yards in front of Stanton's car and ran or quickly walked toward a residence. *Id.*, at 7, 17. Nothing in the record shows that Stanton knew at the time whether that residence belonged to Patrick or someone else; in fact, it belonged to Drendolyn Sims.

Stanton did not see Patrick with a baseball bat, but he considered Patrick's behavior suspicious and decided to detain him in order to investigate. *Ibid.*; see *Terry* v. *Ohio*, 392 U. S. 1 (1968). Stanton exited his patrol car, called out "police," and ordered Patrick to stop in a voice loud enough for all in the area to hear. App. to Pet. for Cert. 7. But Patrick did not stop. Instead, he "looked directly at Stanton, ignored his lawful orders[,] and quickly went through [the] front gate" of a fence enclosing Sims' front yard. *Id.*, at 17 (alterations omitted). When the gate closed behind Patrick, the fence—which was more than six feet tall and made of wood—blocked Stanton's view of the yard. Stanton believed that Patrick had committed a jailable misdemeanor under California Penal Code § 148 by disobeying his order to stop;* Stanton also "fear[ed] for [his] safety." App. to Pet.

*"Every person who willfully resists, delays, or obstructs any . . . peace officer . . . in the discharge or attempt to discharge any duty of his or her office or employment . . . shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not to exceed

for Cert. 7. He accordingly made the "split-second decision" to kick open the gate in pursuit of Patrick. *Ibid.* Unfortunately, and unbeknownst to Stanton, Sims herself was standing behind the gate when it flew open. The swinging gate struck Sims, cutting her forehead and injuring her shoulder.

Sims filed suit against Stanton in Federal District Court under Rev. Stat. § 1979, 42 U. S. C. § 1983, alleging that Stanton unreasonably searched her home without a warrant in violation of the Fourth Amendment. The District Court granted summary judgment to Stanton, finding that: (1) Stanton's entry was justified by the potentially dangerous situation, by the need to pursue Patrick as he fled, and by Sims' lesser expectation of privacy in the curtilage of her home; and (2) even if a constitutional violation had occurred, Stanton was entitled to qualified immunity because no clearly established law put him on notice that his conduct was unconstitutional.

Sims appealed, and a panel of the Court of Appeals for the Ninth Circuit reversed. 706 F. 3d 954 (2013). The court held that Stanton's warrantless entry into Sims' yard was unconstitutional because Sims was entitled to the same expectation of privacy in her curtilage as in her home itself, because there was no immediate danger, and because Patrick had committed only the minor offense of disobeying a police officer. *Id.*, at 959–963. The court also found the law to be clearly established that Stanton's pursuit of Patrick did not justify his warrantless entry, given that Patrick was suspected of only a misdemeanor. *Id.*, at 963–964. The court accordingly held that Stanton was not entitled to qualified immunity. *Id.*, at 964–965. We address only the latter holding here, and now reverse.

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or consti-

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one year, or by both that fine and imprisonment." Cal. Penal Code Ann. § 148(a)(1) (2013 West Cum. Supp.).

tutional rights of which a reasonable person would have known.'" *Pearson* v. *Callahan*, 555 U. S. 223, 231 (2009) (quoting *Harlow* v. *Fitzgerald*, 457 U. S. 800, 818 (1982)). "Qualified immunity gives government officials breathing room to make reasonable but mistaken judgments," and "protects 'all but the plainly incompetent or those who knowingly violate the law.'" *Ashcroft* v. *al-Kidd*, 563 U. S. 731, 743 (2011) (quoting *Malley* v. *Briggs*, 475 U. S. 335, 341 (1986)). "We do not require a case directly on point" before concluding that the law is clearly established, "but existing precedent must have placed the statutory or constitutional question beyond debate." *al-Kidd*, 563 U. S., at 741.

There is no suggestion in this case that Officer Stanton knowingly violated the Constitution; the question is whether, in light of precedent existing at the time, he was "plainly incompetent" in entering Sims' yard to pursue the fleeing Patrick. *Id.*, at 743. The Ninth Circuit concluded that he was. It did so despite the fact that federal and state courts nationwide are sharply divided on the question whether an officer with probable cause to arrest a suspect for a misdemeanor may enter a home without a warrant while in hot pursuit of that suspect. Compare, *e. g.*, *Middletown* v. *Flinchum*, 95 Ohio St. 3d 43, 45, 765 N. E. 2d 330, 332 (2002) ("We . . . hold today that when officers, having identified themselves, are in hot pursuit of a suspect who flees to a house in order to avoid arrest, the police may enter without a warrant, regardless of whether the offense for which the suspect is being arrested is a misdemeanor"), and *State* v. *Ricci*, 144 N. H. 241, 244, 739 A. 2d 404, 407 (1999) ("the facts of this case demonstrate that the police had probable cause to arrest the defendant for the misdemeanor offense of disobeying a police officer" where the defendant had fled into his home with police officers in hot pursuit), with *Mascorro* v. *Billings*, 656 F. 3d 1198, 1207 (CA10 2011) ("The warrantless entry based on hot pursuit was not justified" where "[t]he intended arrest was for a traffic misdemeanor committed by a minor,

with whom the officer was well acquainted, who had fled into his family home from which there was only one exit" (footnote omitted)), and *Butler* v. *State*, 309 Ark. 211, 217, 829 S. W. 2d 412, 415 (1992) ("even though Officer Sudduth might have been under the impression that he was in continuous pursuit of Butler for what he considered to be the crime of disorderly conduct, . . . since the crime is a minor offense, under these circumstances there is no exigent circumstance that would allow Officer Sudduth's warrantless entry into Butler's home for what is concededly, at most, a petty disturbance").

Other courts have concluded that police officers are at least entitled to qualified immunity in these circumstances because the constitutional violation is not clearly established. *E. g.*, *Grenier* v. *Champlin*, 27 F. 3d 1346, 1354 (CA8 1994) ("Putting firmly to one side the merits of whether the home arrests were constitutional, we cannot say that only a plainly incompetent policeman could have thought them permissible at the time," where officers entered a home without a warrant in hot pursuit of misdemeanor suspects who had defied the officers' order to remain outside (internal quotation marks and citation omitted)).

Notwithstanding this basic disagreement, the Ninth Circuit below denied Stanton qualified immunity. In its one-paragraph analysis on the hot pursuit point, the panel relied on two cases, one from this Court, *Welsh* v. *Wisconsin*, 466 U. S. 740, 750 (1984), and one from its own, *United States* v. *Johnson*, 256 F. 3d 895, 908 (2001) (en banc) (*per curiam*). Neither case clearly establishes that Stanton violated Sims' Fourth Amendment rights.

In *Welsh*, police officers learned from a witness that Edward Welsh had driven his car off the road and then left the scene, presumably because he was drunk. Acting on that tip, the officers went to Welsh's home without a warrant, entered without consent, and arrested him for driving while intoxicated—a nonjailable traffic offense under state law.

466 U. S., at 742–743. Our opinion first noted our precedent holding that hot pursuit of a fleeing felon justifies an officer's warrantless entry. *Id.*, at 750 (citing *United States* v. *Santana*, 427 U. S. 38, 42–43 (1976)). But we rejected the suggestion that the hot pursuit exception applied: "there was no immediate or continuous pursuit of [Welsh] from the scene of a crime." 466 U. S., at 753. We went on to conclude that the officers' entry violated the Fourth Amendment, finding it "important" that "there [was] probable cause to believe that only a minor offense . . . ha[d] been committed." *Ibid.* In those circumstances, we said, "application of the exigent-circumstances exception in the context of a home entry should rarely be sanctioned." *Ibid.* But we did not lay down a categorical rule for all cases involving minor offenses, saying only that a warrant is "usually" required. *Id.*, at 750.

In *Johnson*, police officers broke into Michael Johnson's fenced yard in search of another person (Steven Smith) whom they were attempting to apprehend on five misdemeanor arrest warrants. 256 F. 3d, at 898–900. The Ninth Circuit was clear that this case, like *Welsh*, did not involve hot pursuit: "the facts of this case simply are not covered by the 'hot pursuit' doctrine" because Smith had escaped from the police 30 minutes prior and his whereabouts were unknown. 256 F. 3d, at 908. The court held that the officers' entry required a warrant, in part because Smith was wanted for only misdemeanor offenses. Then, in a footnote, the court said: "In situations where an officer is truly in hot pursuit and the underlying offense is a felony, the Fourth Amendment usually yields [to law enforcement's interest in apprehending a fleeing suspect]. See [*Santana*, *supra*, at 42–43]. However, in situations where the underlying offense is only a misdemeanor, law enforcement must yield to the Fourth Amendment in all but the 'rarest' cases. *Welsh*, [*supra*, at 753]." *Id.*, at 908–909, n. 6.

In concluding—as it must have—that Stanton was "plainly incompetent," *al-Kidd*, 563 U. S., at 743, the Ninth Circuit below read *Welsh* and the footnote in *Johnson* far too broadly. First, both of those cases cited *Santana* with approval, a case that *approved* an officer's warrantless entry while in hot pursuit. And though *Santana* involved a felony suspect, we did not expressly limit our holding based on that fact. See 427 U. S., at 42 ("The only remaining question is whether [the suspect's] act of retreating into her house could thwart an otherwise proper arrest. We hold that it could not"). Second, to repeat, neither *Welsh* nor *Johnson* involved hot pursuit. *Welsh*, *supra*, at 753; *Johnson*, *supra*, at 908. Thus, despite our emphasis in *Welsh* on the fact that the crime at issue was minor—indeed, a mere nonjailable civil offense—nothing in the opinion establishes that the seriousness of the crime is equally important *in cases of hot pursuit*. Third, even in the portion of *Welsh* cited by the Ninth Circuit below, our opinion is equivocal: We held not that warrantless entry to arrest a misdemeanant is never justified, but only that such entry should be rare. 466 U. S., at 753.

That is in fact how two California state courts have read *Welsh*. In both *People* v. *Lloyd*, 216 Cal. App. 3d 1425, 1430, 265 Cal. Rptr. 422, 425 (1989), and *In re Lavoyne M.*, 221 Cal. App. 3d 154, 159, 270 Cal. Rptr. 394, 396 (1990), the California Court of Appeal refused to limit the hot pursuit exception to felony suspects. The court stated in *Lloyd*: "Where the pursuit into the home was based on an arrest set in motion in a public place, the fact that the offenses justifying the initial detention or arrest were misdemeanors is of no significance in determining the validity of the entry without a warrant." 216 Cal. App. 3d, at 1430, 265 Cal. Rptr., at 425. It is especially troubling that the Ninth Circuit would conclude that Stanton was plainly incompetent—and subject to personal liability for damages—based on actions that were

lawful according to courts in the jurisdiction where he acted. Cf. *al-Kidd*, *supra*, at 746–747 (KENNEDY, J., concurring).

Finally, our determination that *Welsh* and *Johnson* are insufficient to overcome Stanton's qualified immunity is bolstered by the fact that, even after *Johnson*, two different District Courts in the Ninth Circuit have granted qualified immunity precisely because the law regarding warrantless entry in hot pursuit of a fleeing misdemeanant is not clearly established. See *Kolesnikov* v. *Sacramento County*, No. S–06–2155, 2008 WL 1806193, *7 (ED Cal., Apr. 22, 2008) ("since *Welsh*, it has not been clearly established that there can never be warrantless home arrests in the context of a 'hot pursuit' of a suspect fleeing from the commission of misdemeanor offenses"); *Garcia* v. *Imperial*, No. 08–cv–2357, 2010 WL 3834020, *6, n. 4 (SD Cal., Sept. 28, 2010). In *Garcia*, a case with facts similar to those here, the District Court distinguished *Johnson* as a case where "the officers were not in hot pursuit of the suspect, had not seen the suspect enter the neighbor's property, and had no real reason to think the suspect was there." 2010 WL 3834020, *6, n. 4. Precisely the same facts distinguish this case from *Johnson*: Stanton *was* in hot pursuit of Patrick, he *did* see Patrick enter Sims' property, and he had every reason to believe that Patrick was just beyond Sims' gate. App. to Pet. for Cert. 6–7, 17.

To summarize the law at the time Stanton made his split-second decision to enter Sims' yard: Two opinions of this Court were equivocal on the lawfulness of his entry; two opinions of the State Court of Appeal affirmatively authorized that entry; the most relevant opinion of the Ninth Circuit was readily distinguishable; two Federal District Courts in the Ninth Circuit had granted qualified immunity in the wake of that opinion; and the federal and state courts of last resort around the Nation were sharply divided.

We do not express any view on whether Officer Stanton's entry into Sims' yard in pursuit of Patrick was constitutional. But whether or not the constitutional rule applied by the

court below was correct, it was not "beyond debate." *al-Kidd*, *supra*, at 741. Stanton may have been mistaken in believing his actions were justified, but he was not "plainly incompetent." *Malley*, 475 U. S., at 341.

The petition for certiorari and respondent's motion for leave to proceed *in forma pauperis* are granted, the judgment of the Ninth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

BURT, WARDEN *v.* TITLOW

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

No. 12–414. Argued October 8, 2013—Decided November 5, 2013

Respondent Titlow and Billie Rogers were arrested for the murder of Billie's husband. After explaining to respondent that the State's evidence could support a conviction for first-degree murder, respondent's attorney negotiated a manslaughter plea in exchange for an agreement to testify against Billie. Three days before Billie's trial, respondent retained a new attorney, Frederick Toca, who demanded an even lower sentence in exchange for the guilty plea and testimony. The prosecutor rejected the proposal, and respondent withdrew the original plea. Without that testimony, Billie was acquitted. Respondent was subsequently convicted of second-degree murder. On direct appeal, respondent argued that Toca provided ineffective assistance by advising withdrawal of the plea without taking time to learn the strength of the State's evidence. The Michigan Court of Appeals rejected the claim, concluding that Toca's actions were reasonable in light of his client's protestations of innocence. On federal habeas review, the District Court applied the deferential standard of review set forth in the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), concluded that the Michigan Court of Appeals' ruling was reasonable on the law and facts, and denied relief. The Sixth Circuit reversed. It found the factual predicate for the state court's decision—that the plea withdrawal was based on respondent's assertion of innocence—an unreasonable interpretation of the factual record, given Toca's explanation at the withdrawal hearing that the decision to withdraw was made because the State's original plea offer was higher than the sentencing range provided by the Michigan guidelines. It also found no evidence in the record that Toca adequately advised respondent of the consequences of withdrawal.

Held: The Sixth Circuit failed to apply the "doubly deferential" standard of review recognized by the Court's case law when it refused to credit the state court's reasonable factual finding and assumed that counsel was ineffective where the record was silent. Pp. 18–24.

(a) AEDPA recognizes the federalism principle that state courts are adequate forums for the vindication of federal statutory and constitutional rights. It erects a formidable barrier to federal habeas relief for prisoners whose claims have been adjudicated in state court, requiring them to "show that the state court's ruling . . . was so lacking in justifi-

cation that there was an error . . . beyond any possibility for fairminded disagreement." *Harrington* v. *Richter*, 562 U. S. 86, 103. Pp. 18–20.

(b) Here, the record readily supports the Michigan Court of Appeals' factual finding that Toca advised withdrawal of the guilty plea only after respondent's proclamation of innocence. The facts that respondent passed a polygraph test denying being in the room when Billie's husband was killed, discussed the case with a jailer who advised against pleading guilty if respondent was indeed innocent, and hired Toca just three days before Billie's trial at which respondent had agreed to self-incriminate strongly suggest that respondent had second thoughts about confessing in open court and proclaimed innocence to Toca. The only evidence cited by the Sixth Circuit for its contrary conclusion was that Toca's sole explanation at the withdrawal hearing focused on the fact that the State's plea offer was substantially higher than that provided by the Michigan guidelines. The Michigan Court of Appeals was well aware of Toca's representations to the trial court and correctly found nothing inconsistent about a defendant's asserting innocence on the one hand and refusing to plead guilty to manslaughter accompanied by higher-than-normal punishment on the other. Accepting as true the Michigan Court of Appeals' factual determination that respondent proclaimed innocence to Toca, the Sixth Circuit's *Strickland* analysis cannot be sustained. More troubling is that court's conclusion that Toca was ineffective because the record contained no evidence that he gave constitutionally adequate advice on whether to withdraw the plea. The Sixth Circuit turned on its head the principle that counsel should be "strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," *Strickland* v. *Washington*, 466 U. S. 668, 690, with the burden to show otherwise resting squarely on the defendant, *id.*, at 687. The single fact that Toca failed to retrieve respondent's file from former counsel before withdrawing the guilty plea cannot overcome *Strickland*'s strong presumption of effectiveness. In any event, respondent admitted in open court that former counsel had explained the State's evidence and that it would support a first-degree murder conviction. Toca was justified in relying on this admission to conclude that respondent understood the strength of the prosecution's case. Toca's conduct in this litigation was far from exemplary, but a lawyer's ethical violations do not make the lawyer *per se* ineffective, and Toca's questionable conduct was irrelevant to the narrow issue before the Sixth Circuit. Pp. 20–24.

680 F. 3d 577, reversed.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, BREYER, SOTOMAYOR, and KAGAN, JJ.,

joined. SOTOMAYOR, J., filed a concurring opinion, *post*, p. 24. GINSBURG, J., filed an opinion concurring in the judgment, *post*, p. 26.

John J. Bursch, Solicitor General of Michigan, argued the cause for petitioner. With him on the briefs were *Bill Schuette*, Attorney General, *B. Eric Restuccia*, Deputy Solicitor General, *Aaron D. Lindstrom*, Assistant Solicitor General, and *Raina Korbakis*, Assistant Attorney General.

Ann O'Connell argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Raman*, *Deputy Solicitor General Dreeben*, *April A. Christine*, and *David M. Lieberman*.

Valerie R. Newman, by appointment of the Court, 569 U. S. 957, argued the cause for respondent. With her on the brief were *Jeffrey T. Green*, *Karen S. Smith*, and *Sarah O'Rourke Schrup*.*

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*A brief of *amici curiae* urging reversal was filed for the State of Connecticut et al. by *Kevin T. Kane*, Chief State's Attorney of Connecticut, and *Michael J. Proto*, Assistant State's Attorney, and by the Attorneys General for their respective States as follows: *Luther Strange* of Alabama, *Tom Horne* of Arizona, *Dustin McDaniel* of Arkansas, *Kamala D. Harris* of California, *John W. Suthers* of Colorado, *Joseph R. Biden III* of Delaware, *Pamela Jo Bondi* of Florida, *Samuel S. Olens* of Georgia, *David M. Louie* of Hawaii, *Lawrence G. Wasden* of Idaho, *Lisa Madigan* of Illinois, *Gregory F. Zoeller* of Indiana, *Derek Schmidt* of Kansas, *Jack Conway* of Kentucky, *Buddy Caldwell* of Louisiana, *Janet T. Mills* of Maine, *Douglas F. Gansler* of Maryland, *Lori Swanson* of Minnesota, *Chris Koster* of Missouri, *Timothy C. Fox* of Montana, *Jon Bruning* of Nebraska, *Catherine Cortez Masto* of Nevada, *Joseph A. Foster* of New Hampshire, *Gary K. King* of New Mexico, *E. Scott Pruitt* of Oklahoma, *Peter F. Kilmartin* of Rhode Island, *Alan Wilson* of South Carolina, *Marty J. Jackley* of South Dakota, *Greg Abbott* of Texas, *John E. Swallow* of Utah, *Kenneth T. Cuccinelli II* of Virginia, *Robert W. Ferguson* of Washington, *J. B. Van Hollen* of Wisconsin, and *Gregory A. Phillips* of Wyoming.

Briefs of *amici curiae* urging affirmance were filed for the Constitution Project by *John F. Cooney*; and for the National Association of Criminal Defense Lawyers by *David Debold* and *David M. Porter*.

Briefs of *amici curiae* were filed for the Center on the Administration of Criminal Law, New York University School of Law, by *Daniel Meron*

JUSTICE ALITO delivered the opinion of the Court.

When a state prisoner asks a federal court to set aside a sentence due to ineffective assistance of counsel during plea bargaining, our cases require that the federal court use a "'doubly deferential'" standard of review that gives both the state court and the defense attorney the benefit of the doubt. *Cullen* v. *Pinholster*, 563 U. S. 170, 190 (2011). In this case, the Sixth Circuit failed to apply that doubly deferential standard by refusing to credit a state court's reasonable factual finding and by assuming that counsel was ineffective where the record was silent. Because the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 110 Stat. 1214, and *Strickland* v. *Washington*, 466 U. S. 668 (1984), do not permit federal judges to so casually second-guess the decisions of their state-court colleagues or defense attorneys, the Sixth Circuit's decision must be reversed.

I

Respondent Titlow and Billie Rogers, respondent's aunt, murdered Billie's husband Don by pouring vodka down his throat and smothering him with a pillow. With help from attorney Richard Lustig, respondent reached an agreement with state prosecutors to testify against Billie, plead guilty to manslaughter, and receive a 7- to 15-year sentence. As confirmed at a plea hearing, Lustig reviewed the State's evidence with respondent "over a long period of time," and respondent understood that that evidence could support a conviction for first-degree murder. App. 43–44. The Michigan trial court approved the plea bargain.

Three days before Billie Rogers' trial was to commence, however, respondent retained a new lawyer, Frederick Toca. With Toca's help, respondent demanded a substantially lower minimum sentence (three years, instead of seven) in ex-

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and *Lori Alvino McGill*; and for the Ethics Bureau at Yale by *Lawrence J. Fox*.

change for the agreement to plead guilty and testify. When the prosecutor refused to accede to the new demands, respondent withdrew the plea, acknowledging in open court the consequences of withdrawal (including reinstatement of the first-degree murder charge). Without respondent's critical testimony, Billie Rogers was acquitted, and later died.

Respondent subsequently stood trial. During the course of the trial, respondent denied any intent to harm Don Rogers or any knowledge, at the time respondent covered his mouth or poured vodka down his throat, that Billie intended to harm him. Indeed, respondent testified to attempting to *prevent* Billie from harming her husband. The jury, however, elected to believe respondent's previous out-of-court statements, which squarely demonstrated participation in the killing, and convicted respondent of second-degree murder. The trial court imposed a 20- to 40-year term of imprisonment.

On direct appeal, respondent argued that Toca advised withdrawal of the guilty plea without taking time to learn more about the case, thereby failing to realize the strength of the State's evidence and providing ineffective assistance of counsel. Rejecting that claim, the Michigan Court of Appeals found that Toca acted reasonably in light of his client's protestations of innocence. That court found that respondent's decision to hire Toca was "set in motion" by respondent's "statement to a sheriff's deputy that [respondent] did not commit the offense." App. to Pet. for Cert. 101a. Applying the standard set forth by our decision in *Strickland*, which requires that defense counsel satisfy "an objective standard of reasonableness," 466 U. S., at 688, the Michigan Court of Appeals concluded that "[w]hen a defendant proclaims . . . innocence . . . , it is not objectively unreasonable to recommend that the defendant refrain from pleading guilty—no matter how 'good' the deal may appear." App. to Pet. for Cert. 102a.

Respondent then filed a federal habeas petition under 28 U. S. C. § 2254. Applying AEDPA's deferential standard of review, the District Court concluded that the Michigan Court of Appeals' ruling was "completely reasonable on the law and the facts" and denied relief. No. 07–CV–13614, 2010 WL 4115410, *15 (ED Mich., Oct. 19, 2010). In particular, the District Court concluded that "[c]ounsel could not be ineffective by trying to negotiate a better plea agreement for [Titlow] with Billie Rogers's trial imminent and [Titlow] stating at the time that Billie Rogers had committed the murder without . . . assistance." *Ibid.*

The Sixth Circuit reversed. It found that the factual predicate for the state court's decision—that the withdrawal of the plea was based on respondent's assertion of innocence—was an unreasonable interpretation of the factual record, given Toca's explanation at the withdrawal hearing that "the decision to withdraw Titlow's plea was based on the fact that the State's plea offer was substantially higher than the Michigan guidelines for second-degree murder." 680 F. 3d 577, 589 (2012). Further observing that "[t]he record in this case contains no evidence" that Toca fully informed respondent of the possible consequences of withdrawing the guilty plea, the Sixth Circuit held that Toca rendered ineffective assistance of counsel that resulted in respondent's loss of the benefit of the plea bargain. *Id.*, at 589–592. Citing our decision in *Lafler* v. *Cooper*, 566 U. S. 156 (2012), the Sixth Circuit remanded this case with instructions that the prosecution must reoffer the original plea agreement to respondent, and that the state court should "consul[t]" the plea agreement and "fashion" a remedy for the violation of respondent's Sixth Amendment right to effective assistance of counsel during plea bargaining. 680 F. 3d, at 592. Chief Judge Batchelder dissented on the grounds that the Michigan Court of Appeals' decision was reasonable. *Id.*, at 593.

On remand, the prosecution followed the Sixth Circuit's instructions and reoffered the plea agreement it had offered some 10 years before—even though, in light of Billie Rogers' acquittal and subsequent death, respondent was no longer able to deliver on the promises originally made to the prosecution. At the plea hearing, however, respondent balked, refusing to provide a factual basis for the plea which the court could accept. Respondent admitted to pouring vodka down Don Rogers' throat, but denied assisting in killing him or knowing that pouring vodka down his throat could lead to his death. As at trial, respondent testified to attempting to prevent Billie Rogers from harming her husband. Eventually, after conferring with current counsel (not Toca), respondent admitted to placing Don Rogers in danger by pouring vodka down his throat with the knowledge that his death could result. The trial court took the plea under advisement, where the matter stands at present. We granted certiorari. 568 U. S. 1191 (2013).

II

AEDPA instructs that, when a federal habeas petitioner challenges the factual basis for a prior state-court decision rejecting a claim, the federal court may overturn the state court's decision only if it was "based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U. S. C. § 2254(d)(2). The prisoner bears the burden of rebutting the state court's factual findings "by clear and convincing evidence." § 2254(e)(1). We have not defined the precise relationship between § 2254(d)(2) and § 2254(e)(1), and we need not do so here. See *Wood* v. *Allen*, 558 U. S. 290, 293 (2010). For present purposes, it is enough to reiterate "that a state-court factual determination is not unreasonable merely because the federal habeas court would have reached a different conclusion in the first instance." *Id.*, at 301. AEDPA likewise imposes a highly deferential standard for reviewing

claims of legal error by the state courts: A writ of habeas corpus may issue only if the state court's decision "was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by" this Court. § 2254(d)(1).

AEDPA recognizes a foundational principle of our federal system: State courts are adequate forums for the vindication of federal rights. "[T]he States possess sovereignty concurrent with that of the Federal Government, subject only to limitations imposed by the Supremacy Clause. Under this system of dual sovereignty, we have consistently held that state courts have inherent authority, and are thus presumptively competent, to adjudicate claims arising under the laws of the United States." *Tafflin* v. *Levitt*, 493 U. S. 455, 458 (1990). This principle applies to claimed violations of constitutional, as well as statutory, rights. See *Trainor* v. *Hernandez*, 431 U. S. 434, 443 (1977). Indeed, "state courts have the solemn responsibility equally with the federal courts to safeguard constitutional rights," and this Court has refused to sanction any decision that would "reflec[t] negatively upon [a] state court's ability to do so." *Ibid.* (internal quotation marks omitted). Especially where a case involves such a common claim as ineffective assistance of counsel under *Strickland*—a claim state courts have now adjudicated in countless criminal cases for nearly 30 years—"there is no intrinsic reason why the fact that a man is a federal judge should make him more competent, or conscientious, or learned . . . than his neighbor in the state courthouse." *Stone* v. *Powell*, 428 U. S. 465, 494, n. 35 (1976) (internal quotation marks omitted).

Recognizing the duty and ability of our state-court colleagues to adjudicate claims of constitutional wrong, AEDPA erects a formidable barrier to federal habeas relief for prisoners whose claims have been adjudicated in state court. AEDPA requires "a state prisoner [to] show that the state court's ruling on the claim being presented in federal court

was so lacking in justification that there was an error . . . beyond any possibility for fairminded disagreement." *Harrington* v. *Richter*, 562 U. S. 86, 103 (2011). "If this standard is difficult to meet"—and it is—"that is because it was meant to be." *Id.*, at 102. We will not lightly conclude that a State's criminal justice system has experienced the "extreme malfunctio[n]" for which federal habeas relief is the remedy. *Ibid.* (internal quotation marks omitted).

III

The record readily supports the Michigan Court of Appeals' factual finding that Toca advised withdrawal of the guilty plea only after respondent's proclamation of innocence. Respondent passed a polygraph denying planning to kill Don Rogers or being in the room when he died. Thereafter, according to an affidavit in the record, respondent discussed the case with a jailer, who advised against pleading guilty if respondent was not in fact guilty. App. 298 (affidavit of William Pierson).[1] That conversation "set into motion" respondent's decision to retain Toca. *Ibid.*, ¶8. Those facts, together with the timing of Toca's hiring—on the eve of the trial at which respondent was to self-incriminate—strongly suggest that respondent had second thoughts about confessing in open court and proclaimed innocence to Toca. That conclusion is further bolstered by respondent's maintenance of innocence of Don Rogers' death at trial.

Indeed, reading the record in any other way is difficult. Respondent's first lawyer, Lustig, had negotiated a deal that was quite favorable in light of the fact, admitted by respond-

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[1] Respondent complains that the state court improperly relied on this affidavit, but it was respondent who provided the affidavit to the state court and asked it to rely on the affidavit as part of the ground for remanding for an evidentiary hearing. In any event, even if the state court used the affidavit for a purpose not permitted by state law—a proposition we do not endorse—that would not empower a federal court to grant habeas relief. See *Estelle* v. *McGuire*, 502 U. S. 62, 72 (1991).

ent in open court, that the State's evidence could support a conviction for first-degree murder. This deal involved a guilty plea to manslaughter and a 7- to 15-year sentence—far less than the mandatory sentence of life in prison that results from a conviction for first-degree murder under Michigan law. See Mich. Comp. Laws Ann. § 750.316 (West Supp. 2013). Yet after a jailer advised against pleading guilty if respondent was not guilty, *something* caused respondent both to fire Lustig and hire Toca (who within a few days withdrew the guilty plea), and then to maintain innocence at trial. If that something was not a desire to assert innocence, it is difficult to imagine what it was, and respondent does not offer an alternative theory.

The only evidence the Sixth Circuit cited for its conclusion that the plea withdrawal was not based on respondent's proclamation of innocence was that, when Toca moved to withdraw the guilty plea, he "did not refer to Titlow's claims of innocence," but instead "explained that the decision to withdraw [the] plea was based on the fact that the State's plea offer was substantially higher than the Michigan guidelines for second-degree murder." 680 F. 3d, at 589. The Sixth Circuit believed that this fact "sufficiently rebuts the Michigan Court of Appeals' finding that the plea withdrawal was based on Titlow's assertion of innocence." *Ibid.*

But the Michigan Court of Appeals was well aware of Toca's representations to the trial court, noting in its opinion that respondent "moved to withdraw [the] plea because the agreed upon sentence exceeded the sentencing guidelines range." App. to Pet. for Cert. 100a. The Michigan Court of Appeals, however—unlike the Sixth Circuit—also correctly recognized that there is nothing inconsistent about a defendant's asserting innocence on the one hand and refusing to plead guilty to manslaughter accompanied by higher-than-normal punishment on the other. Indeed, a defendant convinced of his or her own innocence may have a particularly optimistic view of the likelihood of acquittal, and therefore

be more likely to drive a hard bargain with the prosecution before pleading guilty. Viewing the record as a whole, we conclude that the Sixth Circuit improperly set aside a "reasonable state-court determinatio[n] of fact in favor of its own debatable interpretation of the record." *Rice* v. *Collins*, 546 U. S. 333, 335 (2006).

Accepting as true the Michigan Court of Appeals' factual determination that respondent proclaimed innocence to Toca, the Sixth Circuit's *Strickland* analysis cannot be sustained. Although a defendant's proclamation of innocence does not relieve counsel of his normal responsibilities under *Strickland*, it may affect the advice counsel gives. The Michigan Court of Appeals' conclusion that Toca's advice satisfied *Strickland* fell within the bounds of reasonableness under AEDPA, given that respondent was claiming innocence and only days away from offering self-incriminating testimony in open court pursuant to a plea agreement involving an above-guidelines sentence.[2] See *Florida* v. *Nixon*, 543 U. S. 175, 187 (2004) (explaining that the defendant has the "'ultimate authority'" to decide whether to accept a plea bargain); *Brookhart* v. *Janis*, 384 U. S. 1, 7–8 (1966) (observing that a lawyer must not "override his client's desire . . . to plead not guilty"). The Sixth Circuit's conclusion to the contrary was error.

Even more troubling is the Sixth Circuit's conclusion that Toca was ineffective because the "record in this case contains no evidence that" he gave constitutionally adequate advice on whether to withdraw the guilty plea. 680 F. 3d, at 590. We have said that counsel should be "strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment," *Strickland*, 466 U. S., at 690, and that the burden to "show that counsel's performance was deficient" rests

[2] We assume, *arguendo*, as did the Michigan Court of Appeals, that Toca went beyond facilitating respondent's withdrawal of the plea and advised withdrawal, although we note that the sole basis in the record for this assertion appears to be respondent's self-serving testimony.

squarely on the defendant, *id.*, at 687. The Sixth Circuit turned that presumption of effectiveness on its head. It should go without saying that the absence of evidence cannot overcome the "strong presumption that counsel's conduct [fell] within the wide range of reasonable professional assistance." *Id.*, at 689. As Chief Judge Batchelder correctly explained in her dissent, "[w]ithout evidence that Toca gave incorrect advice or evidence that he failed to give material advice, Titlow cannot establish that his performance was deficient." 680 F. 3d, at 595.

The Sixth Circuit pointed to a single fact in support of its conclusion that Toca failed to adequately advise respondent: his failure to retrieve respondent's file from Lustig before withdrawing the guilty plea. *Id.*, at 590. But here, too, the Sixth Circuit deviated from *Strickland*'s strong presumption of effectiveness. The record does not reveal how much Toca was able to glean about respondent's case from other sources; he may well have obtained copies of the critical materials from prosecutors or the court. (Indeed, Toca's statement at the plea withdrawal hearing that "[t]here's a lot of material here" strongly suggests that he did have access to a source of documentation other than Lustig's file. App. 71.)

In any event, the same considerations were relevant to entering and withdrawing the guilty plea, and respondent admitted in open court when initially pleading guilty that Lustig had explained the State's evidence and that this evidence would support a conviction for first-degree murder. Toca was justified in relying on this admission to conclude that respondent understood the strength of the prosecution's case and nevertheless wished to withdraw the plea. With respondent having knowingly entered the guilty plea, we think any confusion about the strength of the State's evidence upon withdrawing the plea less than a month later highly unlikely.

Despite our conclusion that there was no factual or legal justification for overturning the state court's decision, we recognize that Toca's conduct in this litigation was far from

exemplary. He may well have violated the rules of professional conduct by accepting respondent's publication rights as partial payment for his services, and he waited weeks before consulting respondent's first lawyer about the case. But the Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance, and we have held that a lawyer's violation of ethical norms does not make the lawyer *per se* ineffective. See *Mickens* v. *Taylor*, 535 U. S. 162, 171 (2002). Troubling as Toca's actions were, they were irrelevant to the narrow question that was before the Sixth Circuit: whether the state court reasonably determined that respondent was adequately advised before deciding to withdraw the guilty plea. Because the Michigan Court of Appeals' decision that respondent was so advised is reasonable and supported by the record, the Sixth Circuit's judgment is reversed.[3]

It is so ordered.

JUSTICE SOTOMAYOR, concurring.

In my view, this case turns on Vonlee Titlow's failure to present enough evidence of what Frederick Toca did or did not do in the handful of days after she hired him and before she withdrew her plea. As our opinion notes, she bore the burden of overcoming two presumptions: that Toca performed effectively and that the state court ruled correctly. She failed to carry this burden. We need not say more, and indeed we do not say more. I therefore join the Court's opinion in full. I write separately, however, to express my understanding of our opinion's limited scope, particularly with respect to two statements that it makes about the adequacy of Toca's performance.

[3] Because we conclude that the Sixth Circuit erred in finding Toca's representation constitutionally ineffective, we do not reach the other questions presented by this case, namely, whether respondent adequately demonstrated prejudice, and whether the Sixth Circuit's remedy is at odds with our decision in *Lafler* v. *Cooper*, 566 U. S. 156 (2012).

First, we state that "[a]lthough a defendant's proclamation of innocence does not relieve counsel of his normal responsibilities under *Strickland*, it may affect the advice counsel gives." *Ante*, at 22. The first part of that statement bears emphasis: Regardless of whether a defendant asserts her innocence (or admits her guilt), her counsel must "make an independent examination of the facts, circumstances, pleadings and laws involved and then . . . offer his informed opinion as to what plea should be entered." *Von Moltke* v. *Gillies*, 332 U. S. 708, 721 (1948) (plurality opinion). A defendant possesses "'the ultimate authority'" to determine her plea. *Florida* v. *Nixon*, 543 U. S. 175, 187 (2004). But a lawyer must abide by his client's decision in this respect only after having provided the client with competent and fully informed advice, including an analysis of the risks that the client would face in proceeding to trial. Given our recognition that "a defendant's proclamation of innocence does not relieve counsel of his normal responsibilities," *ante*, at 22, our further observation that such a proclamation "may affect the advice counsel gives," *ibid.*, states only the obvious: that a lawyer's advice will always reflect the objectives of the representation, as determined by the adequately informed client.

Second, we state that it was reasonable for the Michigan Court of Appeals to reject respondent's claim, "given that respondent was claiming innocence and only days away from offering self-incriminating testimony" at her aunt's trial. *Ibid.* This is true in context: Because respondent failed to carry her burden of showing that Toca's performance was not adequate, the state court reasonably held that it was. But our statement about the facts of this case does not imply that an attorney performs effectively in advising his client to withdraw from a plea whenever the client asserts her innocence and has only a few days to make the decision. Had respondent made a better factual record—had she actually shown, for example, that Toca failed to edu-

cate himself about the case before recommending that she withdraw her plea—then she could well have prevailed.

Because (and only because) respondent failed to present enough evidence to overcome the twin presumptions of AEDPA and *Strickland*, I join fully in the opinion of the Court.

JUSTICE GINSBURG, concurring in the judgment.

While I join the Court's judgment, I find dubious the Michigan Court of Appeals' conclusion that Toca acted reasonably in light of Titlow's protestations of innocence. Toca became Titlow's counsel on the recommendation of the deputy sheriff to whom Titlow professed innocence. App. 298. As the Court rightly observes, Toca's conduct was "far from exemplary." *Ante*, at 23–24. With virtually no time to make an assessment of Titlow's chances of prevailing at trial, and without consulting the lawyer who had negotiated Titlow's plea, Toca told Titlow he could take the case to trial and win. App. 295 (Titlow's uncontradicted averment). With Toca's aid, Titlow's plea was withdrawn just three days after Toca's retention as defense counsel. At sentencing, the prosecutor volunteered that Titlow had been the "victim of some bad advice." *Id.*, at 291.

Nevertheless, one thing is crystal clear. The prosecutor's agreement to the plea bargain hinged entirely on Titlow's willingness to testify at her aunt's trial. See *id.*, at 42–43, 45. Once Titlow reneged on that half of the deal, the bargain failed. Absent an extant bargain, there was nothing to renew. See *Puckett* v. *United States*, 556 U. S. 129, 137 (2009) ("Although the analogy may not hold in all respects, plea bargains are essentially contracts. . . . [W]hen one of the exchanged promises is not kept . . . we say that the contract was broken."); Scott & Stuntz, Plea Bargaining as Contract, 101 Yale L. J. 1909, 1953 (1992) ("When defendants promise to plead guilty in return for government concessions and then do so, they are legally entitled to the concessions. At

the same time, if the defendant fails to perform, the prosecutor need not perform either." (footnote omitted)). In short, the prosecutor could not be ordered to "renew" a plea proposal never offered in the first place. With the plea offer no longer alive, Titlow was convicted after a trial free from reversible error. See App. 295. For these reasons, I join the Court's judgment.

Per Curiam

FORD MOTOR CO. *v.* UNITED STATES

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

No. 13–113. Decided December 2, 2013

Petitioner Ford Motor Co. made a series of deposits to the Internal Revenue Service (IRS) to cover underpayments the IRS claimed Ford had made. Ford requested that the IRS treat the deposits as advance payments of the additional tax that Ford owed. Audits revealed that Ford had overpaid its taxes, thereby entitling the company to a return of the overpayment as well as interest accrued "from the date of overpayment." 26 U. S. C. §§ 6611(b)(1), (b)(2). A disagreement over the statutory "date of overpayment" led Ford to sue the Government, asserting jurisdiction under 28 U. S. C. § 1346(a)(1). The District Court ruled in the Government's favor, and the Sixth Circuit affirmed, holding that § 6611 is a waiver of sovereign immunity that must be strictly construed in favor of the Government. Ford argues here that it is § 1346 that waives the Government's immunity, not § 6611, and that, accordingly, § 6611 should not be strictly construed. In its response to Ford's petition for certiorari, the Government contended, for the first time, that § 1346(a)(1) does not apply at all to this suit and that, instead, the Tucker Act, 28 U. S. C. § 1491(a), is the only basis for jurisdiction. If the Government is correct, jurisdiction over this case was proper only in the United States Court of Federal Claims.

Held: Because this Court is a court of final review, not first view, the Sixth Circuit should have the first opportunity to consider the Government's new jurisdictional argument. See *FCC* v. *Fox Television Stations, Inc.*, 556 U. S. 502, 529. Depending on its answer, that court may also consider what impact, if any, the jurisdictional determination has on the merits issues presented in this case.

Certiorari granted; 508 Fed. Appx. 506, vacated and remanded.

PER CURIAM.

When a taxpayer overpays his taxes, he is generally entitled to interest from the Government for the period between the payment and the ultimate refund. See 26 U. S. C. § 6611(a). That interest begins to run "from the date of overpayment." §§ 6611(b)(1), (b)(2). But the Code does not define "the date of overpayment."

In this case, after the Internal Revenue Service advised Ford Motor Company that it had underpaid its taxes from 1983 until 1989, Ford remitted a series of deposits to the IRS totaling $875 million. Those deposits stopped the accrual of interest that Ford would otherwise owe once the audits were completed and the amount of its underpayment was finally determined. See § 6601; Rev. Proc. 84–58, 1984–2 Cum. Bull. 501. Later, Ford requested that the IRS treat the deposits as advance payments of the additional tax that Ford owed. Eventually the parties determined that Ford had overpaid its taxes in the relevant years, thereby entitling Ford to a return of the overpayment as well as interest. But the parties disagreed about when the interest began to run under 26 U. S. C. § 6611(b)(1). Ford argued that "the date of overpayment" was the date that it first remitted the deposits to the IRS. *Ibid.* The Government countered that the date of overpayment was the date that Ford requested that the IRS treat the remittances as payments of tax. The difference between the parties' competing interpretations of § 6611(b) is worth some $445 million.

Ford sued the Government in Federal District Court, asserting jurisdiction under 28 U. S. C. § 1346(a)(1). The Government did not contest the court's jurisdiction. See Brief in Opposition 3, n. 3. The District Court accepted the Government's construction of § 6611(b) and granted its motion for judgment on the pleadings. A panel of the Court of Appeals for the Sixth Circuit affirmed, concluding that § 6611 is a waiver of sovereign immunity that must be construed strictly in favor of the Government. 508 Fed. Appx. 506 (2012).

Ford sought certiorari, arguing that the Sixth Circuit was wrong to give § 6611 a strict construction. In Ford's view, it is 28 U. S. C. § 1346—not § 6611—that waives the Government's immunity from this suit, and § 6611(b) is a substantive provision that should not be construed strictly. See *Gómez-Pérez* v. *Potter*, 553 U. S. 474, 491 (2008); *United States* v.

White Mountain Apache Tribe, 537 U. S. 465, 472–473 (2003). In its response to Ford's petition for certiorari, however, the Government contended for the first time that § 1346(a)(1) does not apply at all to this suit; it argues that the only basis for jurisdiction, and "the only general waiver of sovereign immunity that encompasses [Ford's] claim," is the Tucker Act, 28 U. S. C. § 1491(a). Brief in Opposition 3, n. 3. Although the Government acquiesced in jurisdiction in the lower courts, if the Government is now correct that the Tucker Act applies to this suit, jurisdiction over this case was proper only in the United States Court of Federal Claims. See § 1491(a).

This Court "is one of final review, 'not of first view.'" *FCC* v. *Fox Television Stations, Inc.*, 556 U. S. 502, 529 (2009) (quoting *Cutter* v. *Wilkinson*, 544 U. S. 709, 718, n. 7 (2005)). The Sixth Circuit should have the first opportunity to consider the Government's new contention with respect to jurisdiction in this case. Depending on that court's answer, it may also consider what impact, if any, the jurisdictional determination has on the merits issues, especially whether or not § 6611 is a waiver of sovereign immunity that should be construed strictly.

The petition for certiorari is granted, the judgment of the Sixth Circuit is vacated, and the case is remanded for further proceedings.

It is so ordered.

Syllabus

UNITED STATES *v.* WOODS

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

No. 12–562. Argued October 9, 2013—Decided December 3, 2013

Respondent Gary Woods and his employer, Billy Joe McCombs, participated in an offsetting-option tax shelter designed to generate large paper losses that they could use to reduce their taxable income. To that end, they purchased from Deutsche Bank a series of currency-option spreads. Each spread was a package consisting of a long option, which Woods and McCombs purchased from Deutsche Bank and for which they paid a premium, and a short option, which Woods and McCombs sold to Deutsche Bank and for which they received a premium. Because the premium paid for the long option was largely offset by the premium received for the short option, the net cost of the package to Woods and McCombs was substantially less than the cost of the long option alone. Woods and McCombs contributed the spreads, along with cash, to two partnerships, which used the cash to purchase stock and currency. When calculating their basis in the partnership interests, Woods and McCombs considered only the long component of the spreads and disregarded the nearly offsetting short component. As a result, when the partnerships' assets were disposed of for modest gains, Woods and McCombs claimed huge losses. Although they had contributed roughly $3.2 million in cash and spreads to the partnerships, they claimed losses of more than $45 million.

The Internal Revenue Service sent each partnership a Notice of Final Partnership Administrative Adjustment, disregarding the partnerships for tax purposes and disallowing the related losses. It concluded that the partnerships were formed for the purpose of tax avoidance and thus lacked "economic substance," *i. e.*, they were shams. As there were no valid partnerships for tax purposes, the IRS determined that the partners could not claim a basis for their partnership interests greater than zero and that any resulting tax underpayments would be subject to a 40-percent penalty for gross valuation misstatements. Woods sought judicial review. The District Court held that the partnerships were properly disregarded as shams but that the valuation-misstatement penalty did not apply. The Fifth Circuit affirmed.

Held:

1. The District Court had jurisdiction to determine whether the partnerships' lack of economic substance could justify imposing a valuation-misstatement penalty on the partners. Pp. 38–42.

Syllabus

(a) Because a partnership does not pay federal income taxes, its taxable income and losses pass through to the partners. Under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), the IRS initiates partnership-related tax proceedings at the partnership level to adjust "partnership items," *i. e.*, items relevant to the partnership as a whole. 26 U. S. C. §§ 6221, 6231(a)(3). Once the adjustments become final, the IRS may undertake further proceedings at the partner level to make any resulting "computational adjustments" in the tax liability of the individual partners. §§ 6230(a)(1)–(2), (c), 6231(a)(6). Pp. 38–39.

(b) Under TEFRA's framework, a court in a partnership-level proceeding has jurisdiction to determine "the applicability of any penalty . . . which relates to an adjustment to a partnership item." § 6226(f). A determination that a partnership lacks economic substance is such an adjustment. TEFRA authorizes courts in partnership-level proceedings to provisionally determine the applicability of any penalty that could result from an adjustment to a partnership item, even though imposing the penalty requires a subsequent, partner-level proceeding. In that later proceeding, each partner may raise any reasons why the penalty may not be imposed on him specifically. Applying those principles here, the District Court had jurisdiction to determine the applicability of the valuation-misstatement penalty. Pp. 39–42.

2. The valuation-misstatement penalty applies in this case. Pp. 43–48.

(a) A penalty applies to the portion of any underpayment that is "attributable to" a "substantial" or "gross" "valuation misstatement," which exists where "the value of any property (or the adjusted basis of any property) claimed on any return of tax" exceeds by a specified percentage "the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be)." § 6662(a), (b)(3), (e)(1)(A), (h). The penalty's plain language makes it applicable here. Once the partnerships were deemed not to exist for tax purposes, no partner could legitimately claim a basis in his partnership interest greater than zero. Any underpayment resulting from use of a non-zero basis would therefore be "attributable to" the partner's having claimed an "adjusted basis" in the partnerships that exceeded "the correct amount of such . . . adjusted basis." § 6662(e)(1)(A). And under the relevant Treasury Regulation, when an asset's adjusted basis is zero, a valuation misstatement is automatically deemed gross. Pp. 43–44.

(b) Woods' contrary arguments are unpersuasive. The valuation-misstatement penalty encompasses misstatements that rest on legal as well as factual errors, so it is applicable to misstatements that rest on the use of a sham partnership. And the partnerships' lack of economic

substance is not an independent ground separate from the misstatement of basis in this case. Pp. 44–48.

471 Fed. Appx. 320, reversed.

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

Deputy Solicitor General Stewart argued the cause for the United States. With him on the briefs were *Solicitor General Verrilli*, *Assistant Attorney General Keneally*, *John F. Bash*, *Gilbert S. Rothenberg*, *Richard Farber*, and *Arthur T. Catterall*.

Gregory G. Garre argued the cause for respondent. With him on the brief were *Katya S. Cronin* and *Joel N. Crouch*.*

JUSTICE SCALIA delivered the opinion of the Court.

We decide whether the penalty for tax underpayments attributable to valuation misstatements, 26 U. S. C. § 6662(b)(3), is applicable to an underpayment resulting from a basis-inflating transaction subsequently disregarded for lack of economic substance.

I. The Facts

A

This case involves an offsetting-option tax shelter, variants of which were marketed to high-income taxpayers in the late 1990's. Tax shelters of this type sought to generate large paper losses that a taxpayer could use to reduce taxable income. They did so by attempting to give the taxpayer an artificially high basis in a partnership interest,

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Christopher M. Reimer filed a brief for Scott Blum et al. as *amici curiae* urging affirmance.

Briefs of *amici curiae* were filed for Gordon W. Bush et al. by *Thomas E. Redding* and *Sallie W. Gladney*; for Amandeep S. Grewal by *Mr. Grewal*, *pro se*; for David J. Shakow by *Mr. Shakow*, *pro se*; for New Millennium Trading, LLC, et al. by *Thomas A. Cullinan* and *N. Jerold Cohen*; and for Partners in Jade Trading, LLC, et al. by *David D. Aughtry* and *Edward M. Robbins, Jr.*

which enabled the taxpayer to claim a significant tax loss upon disposition of the interest. See IRS Notice 2000–44, 2000–2 Cum. Bull. 255 (describing offsetting-option tax shelters).

The particular tax shelter at issue in this case was developed by the now-defunct law firm Jenkens & Gilchrist and marketed by the accounting firm Ernst & Young under the name "Current Options Bring Reward Alternatives," or COBRA. Respondent Gary Woods and his employer, Billy Joe McCombs, agreed to participate in COBRA to reduce their tax liability for 1999. To that end, in November 1999 they created two general partnerships: one, Tesoro Drive Partners, to produce ordinary losses, and the other, SA Tesoro Investment Partners, to produce capital losses.

Over the next two months, acting through their respective wholly owned, limited liability companies, Woods and McCombs executed a series of transactions. First, they purchased from Deutsche Bank five 30-day currency-option spreads. Each of these option spreads was a package consisting of a so-called long option, which entitled Woods and McCombs to receive a sum of money from Deutsche Bank if a certain currency exchange rate exceeded a certain figure on a certain date, and a so-called short option, which entitled Deutsche Bank to receive a sum of money from Woods and McCombs if the exchange rate for the same currency on the same date exceeded a certain figure so close to the figure triggering the long option that both were likely to be triggered (or not to be triggered) on the fated date. Because the premium paid to Deutsche Bank for purchase of the long option was largely offset by the premium received from Deutsche Bank for sale of the short option, the net cost of the package to Woods and McCombs was substantially less than the cost of the long option alone. Specifically, the premiums paid for all five of the spreads' long options totaled $46 million, and the premiums received for the five spreads' short options totaled $43.7 million, so the net cost of the

spreads was just $2.3 million. Woods and McCombs contributed the spreads to the partnerships along with about $900,000 in cash. The partnerships used the cash to purchase assets—Canadian dollars for the partnership that sought to produce ordinary losses, and Sun Microsystems stock for the partnership that sought to produce capital losses. The partnerships then terminated the five option spreads in exchange for a lump-sum payment from Deutsche Bank.

As the tax year drew to a close, Woods and McCombs transferred their interests in the partnerships to two S corporations. One corporation, Tesoro Drive Investors, Inc., received both partners' interests in Tesoro Drive Partners; the other corporation, SA Tesoro Drive Investors, Inc., received both partners' interests in SA Tesoro Investment Partners. Since this left each partnership with only a single partner (the relevant S corporation), the partnerships were liquidated by operation of law, and their assets—the Canadian dollars and Sun Microsystems stock, plus the remaining cash—were deemed distributed to the corporations. The corporations then sold those assets for modest gains of about $2,000 on the Canadian dollars and about $57,000 on the stock. But instead of gains, the corporations reported huge losses: an ordinary loss of more than $13 million on the sale of the Canadian dollars and a capital loss of more than $32 million on the sale of the stock. The losses were allocated between Woods and McCombs as the corporations' co-owners.

The reason the corporations were able to claim such vast losses—the alchemy at the heart of an offsetting-options tax shelter—lay in how Woods and McCombs calculated the tax basis of their interests in the partnerships. Tax basis is the amount used as the cost of an asset when computing how much its owner gained or lost for tax purposes when disposing of it. See J. Downes & J. Goodman, Dictionary of Finance and Investment Terms 736 (2010). A partner's tax

basis in a partnership interest—called "outside basis" to distinguish it from "inside basis," the partnership's basis in its own assets—is tied to the value of any assets the partner contributed to acquire the interest. See 26 U. S. C. § 722. Collectively, Woods and McCombs contributed roughly $3.2 million in option spreads and cash to acquire their interests in the two partnerships. But for purposes of computing outside basis, Woods and McCombs considered only the long component of the spreads and disregarded the nearly offsetting short component on the theory that it was "too contingent" to count. Brief for Respondent 14. As a result, they claimed a total adjusted outside basis of more than $48 million. Since the basis of property distributed to a partner by a liquidating partnership is equal to the adjusted basis of the partner's interest in the partnership (reduced by any cash distributed with the property), see § 732(b), the inflated outside basis figure was carried over to the S corporations' basis in the Canadian dollars and the stock, enabling the corporations to report enormous losses when those assets were sold. At the end of the day, Woods' and McCombs' $3.2 million investment generated tax losses that, if treated as valid, could have shielded more than $45 million of income from taxation.

B

The Internal Revenue Service, however, did not treat the COBRA-generated losses as valid. Instead, after auditing the partnerships' tax returns, it issued to each partnership a Notice of Final Partnership Administrative Adjustment, or "FPAA." In the FPAAs, the IRS determined that the partnerships had been "formed and availed of solely for purposes of tax avoidance by artificially overstating basis in the partnership interests of [the] purported partners." App. 92, 146. Because the partnerships had "no business purpose other than tax avoidance," the IRS said, they "lacked economic substance"—or, put more starkly, they were "sham[s]"—so the IRS would disregard them for tax

purposes and disallow the related losses. *Ibid.* And because there were no valid partnerships for tax purposes, the IRS determined that the partners had "not established adjusted bases in their respective partnership interests in an amount greater than zero," *id.*, at 95, ¶7, 149, ¶7, so that any resulting tax underpayments would be subject to a 40-percent penalty for gross valuation misstatements, see 26 U. S. C. § 6662(b)(3).

Woods, as the tax-matters partner for both partnerships, sought judicial review of the FPAAs pursuant to § 6226(a). The District Court held that the partnerships were properly disregarded as shams but that the valuation-misstatement penalty did not apply. The Government appealed the decision on the penalty to the Court of Appeals for the Fifth Circuit. While the appeal was pending, the Fifth Circuit held in a similar case that, under Circuit precedent, the valuation-misstatement penalty does not apply when the relevant transaction is disregarded for lacking economic substance. *Bemont Invs., LLC* v. *United States*, 679 F. 3d 339, 347–348 (2012). In a concurrence joined by the other members of the panel, Judge Prado acknowledged that this rule was binding Circuit law but suggested that it was mistaken. See *id.*, at 351–355. A different panel subsequently affirmed the District Court's decision in this case in a one-paragraph opinion, declaring the issue "well settled." 471 Fed. Appx. 320 (*per curiam*), reh'g denied (2012).[1]

We granted certiorari to resolve a Circuit split over whether the valuation-misstatement penalty is applicable in these circumstances. 568 U. S. 1248 (2013). See *Bemont*, *supra*, at 354–355 (Prado, J., concurring) (recognizing "near-unanimous opposition" to the Fifth Circuit's rule). Because

[1] The District Court held that the partnerships did not have to be "honored as legitimate for tax purposes" because they did not possess "'economic substance.'" App. to Pet. for Cert. 19a. Woods did not appeal the District Court's application of the economic-substance doctrine, so we express no view on it.

two Courts of Appeals have held that District Courts lacked jurisdiction to consider the valuation-misstatement penalty in similar circumstances, see *Jade Trading, LLC* v. *United States*, 598 F. 3d 1372, 1380 (CA Fed. 2010); *Petaluma FX Partners, LLC* v. *Commissioner*, 591 F. 3d 649, 655–656 (CADC 2010), we ordered briefing on that question as well.

II. District-Court Jurisdiction

A

We begin with a brief explanation of the statutory scheme for dealing with partnership-related tax matters. A partnership does not pay federal income taxes; instead, its taxable income and losses pass through to the partners. 26 U. S. C. § 701. A partnership must report its tax items on an information return, § 6031(a), and the partners must report their distributive shares of the partnership's tax items on their own individual returns, §§ 702, 704.

Before 1982, the IRS had no way of correcting errors on a partnership's return in a single, unified proceeding. Instead, tax matters pertaining to all the members of a partnership were dealt with just like tax matters pertaining only to a single taxpayer: through deficiency proceedings at the individual-taxpayer level. See generally §§ 6211–6216 (2006 ed. and Supp. V). Deficiency proceedings require the IRS to issue a separate notice of deficiency to each taxpayer, § 6212(a) (2006 ed.), who can file a petition in the Tax Court disputing the alleged deficiency before paying it, § 6213(a). Having to use deficiency proceedings for partnership-related tax matters led to duplicative proceedings and the potential for inconsistent treatment of partners in the same partnership. Congress addressed those difficulties by enacting the Tax Treatment of Partnership Items Act of 1982, as Title IV of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). 96 Stat. 648 (codified as amended at 26 U. S. C. §§ 6221–6232 (2006 ed. and Supp. V)).

Under TEFRA, partnership-related tax matters are addressed in two stages. First, the IRS must initiate proceedings at the partnership level to adjust "partnership items," those relevant to the partnership as a whole. §§ 6221, 6231(a)(3). It must issue an FPAA notifying the partners of any adjustments to partnership items, § 6223(a)(2), and the partners may seek judicial review of those adjustments, § 6226(a)–(b). Once the adjustments to partnership items have become final, the IRS may undertake further proceedings at the partner level to make any resulting "computational adjustments" in the tax liability of the individual partners. § 6231(a)(6). Most computational adjustments may be directly assessed against the partners, bypassing deficiency proceedings and permitting the partners to challenge the assessments only in post-payment refund actions. § 6230(a)(1), (c). Deficiency proceedings are still required, however, for certain computational adjustments that are attributable to "affected items," that is, items that are affected by (but are not themselves) partnership items. §§ 6230(a)(2)(A)(i), 6231(a)(5).

B

Under the TEFRA framework, a court in a partnership-level proceeding like this one has jurisdiction to determine not just partnership items, but also "the applicability of any penalty . . . which relates to an adjustment to a partnership item." § 6226(f). As both sides agree, a determination that a partnership lacks economic substance is an adjustment to a partnership item. Thus, the jurisdictional question here boils down to whether the valuation-misstatement penalty "relates to" the determination that the partnerships Woods and McCombs created were shams.

The Government's theory of why the penalty was triggered is based on a straightforward relationship between the economic-substance determination and the penalty. In the Government's view, there can be no outside basis in a sham partnership (which, for tax purposes, does not exist), so any

partner who underpaid his individual taxes by declaring an outside basis greater than zero committed a valuation misstatement. In other words, the penalty flows logically and inevitably from the economic-substance determination.

Woods, however, argues that because outside basis is not a partnership item, but an affected item, a penalty that would rest on a misstatement of outside basis cannot be considered at the partnership level. He maintains, in short, that a penalty does not relate to a partnership-item adjustment if it "requires a partner-level determination," regardless of "whether or not the penalty has a connection to a partnership item." Brief for Respondent 27.

Because § 6226(f)'s "relates to" language is "essentially indeterminate," we must resolve this dispute by looking to "the structure of [TEFRA] and its other provisions." *Maracich* v. *Spears*, 570 U. S. 48, 59–60 (2013) (internal quotation marks and brackets omitted). That inquiry makes clear that the District Court's jurisdiction is not as narrow as Woods contends. Prohibiting courts in partnership-level proceedings from considering the applicability of penalties that require partner-level inquiries would be inconsistent with the nature of the "applicability" determination that TEFRA requires.

Under TEFRA's two-stage structure, penalties for tax underpayment must be *imposed* at the partner level, because partnerships themselves pay no taxes. And imposing a penalty always requires some determinations that can be made only at the partner level. Even where a partnership's return contains significant errors, a partner may not have carried over those errors to his own return; or if he did, the errors may not have caused him to underpay his taxes by a large enough amount to trigger the penalty; or if they did, the partner may nonetheless have acted in good faith with reasonable cause, which is a bar to the imposition of many penalties, see § 6664(c)(1). None of those issues can be conclusively determined at the partnership level. Yet notwith-

standing that every penalty must be imposed in partner-level proceedings after partner-level determinations, TEFRA provides that the *applicability* of some penalties must be determined at the partnership level. The applicability determination is therefore inherently provisional; it is always contingent upon determinations that the court in a partnership-level proceeding does not have jurisdiction to make. Barring partnership-level courts from considering the applicability of penalties that cannot be imposed without partner-level inquiries would render TEFRA's authorization to consider some penalties at the partnership level meaningless.

Other provisions of TEFRA confirm that conclusion. One requires the IRS to use deficiency proceedings for computational adjustments that rest on "affected items which require partner level determinations (other than penalties . . . that relate to adjustments to partnership items)." § 6230(a)(2)(A)(i). Another states that while a partnership-level determination "concerning the applicability of any penalty . . . which relates to an adjustment to a partnership item" is "conclusive" in a subsequent refund action, that does not prevent the partner from "assert[ing] any partner level defenses that may apply." § 6230(c)(4). Both these provisions assume that a penalty can relate to a partnership-item adjustment even if the penalty cannot be imposed without additional, partner-level determinations.

These considerations lead us to reject Woods' interpretation of § 6226(f). We hold that TEFRA gives courts in partnership-level proceedings jurisdiction to determine the applicability of any penalty that could result from an adjustment to a partnership item, even if imposing the penalty would also require determining affected or non-partnership items such as outside basis. The partnership-level applicability determination, we stress, is provisional: the court may decide only whether adjustments properly made at the partnership level have the potential to trigger the penalty.

Each partner remains free to raise, in subsequent, partner-level proceedings, any reasons why the penalty may not be imposed on him specifically.

Applying the foregoing principles to this case, we conclude that the District Court had jurisdiction to determine the applicability of the valuation-misstatement penalty—to determine, that is, whether the partnerships' lack of economic substance (which all agree was properly decided at the partnership level) could justify imposing a valuation-misstatement penalty on the partners. When making that determination, the District Court was obliged to consider Woods' arguments that the economic-substance determination was categorically incapable of triggering the penalty. Deferring consideration of those arguments until partner-level proceedings would replicate the precise evil that TEFRA sets out to remedy: duplicative proceedings, potentially leading to inconsistent results, on a question that applies equally to all of the partners.

To be sure, the District Court could not make a formal adjustment of any partner's outside basis in this partnership-level proceeding. See *Petaluma*, 591 F. 3d, at 655. But it nonetheless could determine whether the adjustments it did make, including the economic-substance determination, had the potential to trigger a penalty; and in doing so, it was not required to shut its eyes to the legal impossibility of any partner's possessing an outside basis greater than zero in a partnership that, for tax purposes, did not exist. Each partner's outside basis still must be adjusted at the partner level before the penalty can be imposed, but that poses no obstacle to a partnership-level court's provisional consideration of whether the economic-substance determination is legally capable of triggering the penalty.[2]

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[2] Some *amici* warn that our holding bodes an odd procedural result: The IRS will be able to assess the 40-percent penalty directly, but it will have to use deficiency proceedings to assess the tax underpayment upon which the penalty is imposed. See Brief for New Millennium Trading, LLC,

III. Applicability of Valuation-Misstatement Penalty

A

Taxpayers who underpay their taxes due to a "valuation misstatement" may incur an accuracy-related penalty. A 20-percent penalty applies to "the portion of any underpayment which is attributable to . . . [a]ny substantial valuation misstatement under chapter 1." 26 U. S. C. § 6662(a), (b)(3). Under the version of the penalty statute in effect when the transactions at issue here occurred,

> "there is a substantial valuation misstatement under chapter 1 if . . . the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be)." § 6662(e)(1)(A) (2000 ed.).

If the reported value or adjusted basis exceeds the correct amount by at least 400 percent, the valuation misstatement is considered not merely substantial, but "gross," and the penalty increases to 40 percent. § 6662(h).[3]

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et al. as *Amici Curiae* 12–13. That criticism assumes that the underpayment would not be exempt from deficiency proceedings because it would rest on outside basis, an "affected ite[m] . . . other than [a] penalt[y]," 26 U. S. C. § 6230(a)(2)(A)(i). We need not resolve that question today, but we do not think *amici*'s answer necessarily follows. Even an underpayment attributable to an affected item is exempt so long as the affected item does not "require partner level determinations," *ibid.*; see *Bush* v. *United States*, 655 F. 3d 1323, 1330, 1333–1334 (CA Fed. 2011) (en banc); and it is not readily apparent why additional partner-level determinations would be required before adjusting outside basis in a sham partnership. Cf. *Petaluma FX Partners, LLC* v. *Commissioner*, 591 F. 3d 649, 655 (CADC 2010) ("If disregarding a partnership leads ineluctably to the conclusion that its partners have no outside basis, that should be just as obvious in partner-level proceedings as it is in partnership-level proceedings").

[3] Congress has since lowered the thresholds for substantial and gross misstatements to 150 percent and 200 percent, respectively. See Pension Protection Act of 2006, § 1219(a)(1)–(2), 120 Stat. 1083.

The penalty's plain language makes it applicable here. As we have explained, the COBRA transactions were designed to generate losses by enabling the partners to claim a high outside basis in the partnerships. But once the partnerships were deemed not to exist for tax purposes, no partner could legitimately claim an outside basis greater than zero. Accordingly, if a partner used an outside basis figure greater than zero to claim losses on his tax return, and if deducting those losses caused the partner to underpay his taxes, then the resulting underpayment would be "attributable to" the partner's having claimed an "adjusted basis" in the partnerships that exceeded "the correct amount of such . . . adjusted basis." § 6662(e)(1)(A).

An IRS regulation provides that when an asset's true value or adjusted basis is zero, "[t]he value or adjusted basis claimed . . . is considered to be 400 percent or more of the correct amount," so that the resulting valuation misstatement is automatically deemed gross and subject to the 40-percent penalty. Treas. Reg. § 1.6662–5(g), 26 CFR § 1.6662–5(g) (2013).[4]

B

Against this straightforward application of the statute, Woods' primary argument is that the economic-substance determination did not result in a "valuation misstatement." He asserts that the statutory terms "value" and "valuation" connote "a factual—rather than legal—concept," and that the penalty therefore applies only to factual misrepresentations about an asset's worth or cost, not to misrepresentations that rest on legal errors (like the use of a sham partnership). Brief for Respondent 35.

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[4] An *amicus* suggests that this regulation is in tension with the mathematical rule forbidding division by zero. See Brief for Prof. Amandeep S. Grewal as *Amicus Curiae* 20, n. 7; cf. *Lee's Summit* v. *Surface Transp. Bd.*, 231 F. 3d 39, 41–42 (CADC 2000) (discussing "problems posed by applying [a] 100% increase standard to a baseline of zero"). Woods has not challenged the regulation before this Court, so we assume its validity for purposes of deciding this case.

We are not convinced. To begin, we doubt that "value" is limited to factual issues and excludes threshold legal determinations. Cf. *Powers* v. *Commissioner*, 312 U. S. 259, 260 (1941) ("[W]hat criterion should be employed for determining the 'value' of the gifts is a question of law"); *Chapman Glen Ltd.* v. *Commissioner*, 140 T. C. No. 15, 2013 WL 2319282, *17 (2013) ("[T]hree approaches are used to determine the fair market value of property," and "which approach to apply in a case is a question of law"). But even if "value" were limited to factual matters, the statute refers to "value" *or* "adjusted basis," and there is no justification for extending that limitation to the latter term, which plainly incorporates legal inquiries. An asset's "basis" is simply its cost, 26 U. S. C. § 1012(a) (2006 ed., Supp. V), but calculating its "adjusted basis" requires the application of a host of legal rules, see §§ 1011(a) (2006 ed.), 1016 (2006 ed. and Supp. V), including specialized rules for calculating the adjusted basis of a partner's interest in a partnership, see § 705 (2006 ed.). The statute contains no indication that the misapplication of one of those legal rules cannot trigger the penalty. Were we to hold otherwise, we would read the word "adjusted" out of the statute.

To overcome the plain meaning of "adjusted basis," Woods asks us to interpret the parentheses in the statutory phrase "the value of any property (or the adjusted basis of any property)" as a signal that "adjusted basis" is merely explanatory or illustrative and has no meaning independent of "value." The parentheses cannot bear that much weight, given the compelling textual evidence to the contrary. For one thing, the terms reappear later in the same sentence sans parentheses—in the phrase "such valuation or adjusted basis." Moreover, the operative terms are connected by the conjunction "or." While that can sometimes introduce an appositive—a word or phrase that is synonymous with what precedes it ("Vienna or Wien," "Batman or the Caped Crusader")—its ordinary use is almost always disjunctive, that is, the words it connects are to "be given separate mean-

ings." *Reiter* v. *Sonotone Corp.*, 442 U. S. 330, 339 (1979). And, of course, there is no way that "adjusted basis" could be regarded as synonymous with "value." Finally, the terms' second disjunctive appearance is followed by "as the case may be," which eliminates any lingering doubt that the preceding items are alternatives. See New Oxford American Dictionary 269 (3d ed. 2010). The parentheses thus do not justify "rob[bing] the term ['adjusted basis'] of its independent and ordinary significance." *Reiter*, *supra*, at 338–339.

Our holding that the valuation-misstatement penalty encompasses legal as well as factual misstatements of adjusted basis does not make superfluous the new penalty that Congress enacted in 2010 for transactions lacking in economic substance, see § 1409(b)(2), 124 Stat. 1068–1069 (codified at 26 U. S. C. § 6662(b)(6) (2006 ed., Supp. V)). The new penalty covers all sham transactions, including those that do not cause the taxpayer to misrepresent value or basis; thus, it can apply in situations where the valuation-misstatement penalty cannot. And the fact that both penalties are potentially applicable to sham transactions resulting in valuation misstatements is not problematic. Congress recognized that penalties might overlap in a given case, and it addressed that possibility by providing that a taxpayer generally cannot receive more than one accuracy-related penalty for the same underpayment. See § 6662(b) (2006 ed. and Supp. V).[5]

C

In the alternative, Woods argues that any underpayment of tax in this case would be "attributable," not to the mis-

[5] We do not consider Woods' arguments based on legislative history. Whether or not legislative history is ever relevant, it need not be consulted when, as here, the statutory text is unambiguous. *Mohamad* v. *Palestinian Authority*, 566 U. S. 449, 458–459 (2012). Nor do we evaluate the claim that application of the penalty to legal rather than factual misrepresentations is a recent innovation. An agency's failure to assert a power, even if prolonged, cannot alter the plain meaning of a statute.

statements of outside basis, but rather to the determination that the partnerships were shams—which he describes as an "independent legal ground." Brief for Respondent 46. That is the rationale that the Fifth and Ninth Circuits have adopted for refusing to apply the valuation-misstatement penalty in cases like this, although both courts have voiced doubts about it. See *Bemont*, 679 F. 3d, at 347–348; *id.*, at 351–355 (Prado, J., concurring); *Keller* v. *Commissioner*, 556 F. 3d 1056, 1060–1061 (CA9 2009).

We reject the argument's premise: The economic-substance determination and the basis misstatement are not "independent" of one another. This is not a case where a valuation misstatement is a mere side effect of a sham transaction. Rather, the overstatement of outside basis was the linchpin of the COBRA tax shelter and the mechanism by which Woods and McCombs sought to reduce their taxable income. As Judge Prado observed, in this type of tax shelter, "the basis misstatement and the transaction's lack of economic substance are inextricably intertwined," so "attributing the tax underpayment only to the artificiality of the transaction and not to the basis overvaluation is making a false distinction." *Bemont*, *supra*, at 354 (concurring opinion). In short, the partners underpaid their taxes because they overstated their outside basis, and they overstated their outside basis because the partnerships were shams. We therefore have no difficulty concluding that any underpayment resulting from the COBRA tax shelter is attributable to the partners' misrepresentation of outside basis (a valuation misstatement).

Woods contends, however, that a document known as the "Blue Book" compels a different result. See General Explanation of the Economic Recovery Tax Act of 1981 (Pub. L. 97–34), 97th Cong., 1st Sess., 333, and n. 2 (Jt. Comm. Print 1981). Blue Books are prepared by the staff of the Joint Committee on Taxation as commentaries on recently passed tax laws. They are "written after passage of the legislation

and therefore d[o] not inform the decisions of the members of Congress who vot[e] in favor of the [law]." *Flood* v. *United States*, 33 F. 3d 1174, 1178 (CA9 1994). We have held that such "[p]ost-enactment legislative history (a contradiction in terms) is not a legitimate tool of statutory interpretation." *Bruesewitz* v. *Wyeth LLC*, 562 U. S. 223, 242 (2011); accord, *Federal Nat. Mortgage Assn.* v. *United States*, 379 F. 3d 1303, 1309 (CA Fed. 2004) (dismissing Blue Book as "a post-enactment explanation"). While we have relied on similar documents in the past, see *FPC* v. *Memphis Light, Gas & Water Div.*, 411 U. S. 458, 471–472 (1973), our more recent precedents disapprove of that practice. Of course the Blue Book, like a law review article, may be relevant to the extent it is persuasive. But the passage at issue here does not persuade. It concerns a situation quite different from the one we confront: two separate, non-overlapping underpayments, only one of which is attributable to a valuation misstatement.

* * *

The District Court had jurisdiction in this partnership-level proceeding to determine the applicability of the valuation-misstatement penalty, and the penalty is applicable to tax underpayments resulting from the partners' participation in the COBRA tax shelter. The judgment of the Court of Appeals is reversed.

It is so ordered.

Syllabus

ATLANTIC MARINE CONSTRUCTION CO., INC. *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS ET AL.

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

No. 12–929. Argued October 9, 2013—Decided December 3, 2013

Petitioner Atlantic Marine Construction Co., a Virginia corporation, entered into a subcontract with respondent J-Crew Management, Inc., a Texas corporation, for work on a construction project. The subcontract included a forum-selection clause, which stated that all disputes between the parties would be litigated in Virginia. When a dispute arose, however, J-Crew filed suit in the Western District of Texas. Atlantic Marine moved to dismiss, arguing that the forum-selection clause rendered venue "wrong" under 28 U. S. C. § 1406(a) and "improper" under Federal Rule of Civil Procedure 12(b)(3). In the alternative, Atlantic Marine moved to transfer the case to the Eastern District of Virginia under 28 U. S. C. § 1404(a). The District Court denied both motions. It concluded that § 1404(a) is the exclusive mechanism for enforcing a forum-selection clause that points to another federal forum; that Atlantic Marine bore the burden of establishing that a transfer would be appropriate under § 1404(a); and that the court would consider both public- and private-interest factors, only one of which was the forum-selection clause. After weighing those factors, the court held that Atlantic Marine had not carried its burden.

The Fifth Circuit denied Atlantic Marine's petition for a writ of mandamus directing the District Court to dismiss the case under § 1406(a) or to transfer it to the Eastern District of Virginia under § 1404(a). The court agreed with the District Court that § 1404(a) is the exclusive mechanism for enforcing a forum-selection clause that points to another federal forum; that dismissal under Rule 12(b)(3) would be the correct mechanism for enforcing a forum-selection clause that pointed to a nonfederal forum; and that the District Court had not abused its discretion in refusing to transfer the case after conducting the balance-of-interests analysis required by § 1404(a).

Held:

1. A forum-selection clause may be enforced by a motion to transfer under § 1404(a), which provides that "[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer

any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented." Pp. 55–61.

(a) Section 1406(a) and Rule 12(b)(3) allow dismissal only when venue is "wrong" or "improper." Whether venue is "wrong" or "improper" depends exclusively on whether the court in which the case was brought satisfies the requirements of federal venue laws. Title 28 U. S. C. § 1391, which governs venue generally, states that "[e]xcept as otherwise provided by law . . . this section shall govern the venue of all civil actions brought in" federal district courts. § 1391(a)(1). It then defines districts in which venue is proper. See § 1391(b). If a case falls within one of § 1391(b)'s districts, venue is proper; if it does not, venue is improper, and the case must be dismissed or transferred under § 1406(a). Whether the parties' contract contains a forum-selection clause has no bearing on whether a case falls into one of the specified districts.

This conclusion is confirmed by the structure of the federal venue provisions, which reflects Congress' intent that venue should always lie in *some* federal court whenever federal courts have personal jurisdiction over the defendant. See § 1391(b)(3). The conclusion also follows from this Court's decisions construing the federal venue statutes. See *Van Dusen* v. *Barrack*, 376 U. S. 612; *Stewart Organization, Inc.* v. *Ricoh Corp.*, 487 U. S. 22. Pp. 55–59.

(b) Although a forum-selection clause does not render venue in a court "wrong" or "improper" under § 1406(a) or Rule 12(b)(3), the clause may be enforced through a motion to transfer under § 1404(a), which permits transfer to any other district where venue is proper or to any district to which the parties have agreed by contract or stipulation. Section 1404(a), however, governs transfer only within the federal court system. When a forum-selection clause points to a state or foreign forum, the clause may be enforced through the doctrine of *forum non conveniens*. Section 1404(a) is a codification of that doctrine for the subset of cases in which the transferee forum is another federal court. *Sinochem Int'l Co.* v. *Malaysia Int'l Shipping Corp.*, 549 U. S. 422. For all other cases, parties may still invoke the residual *forum non conveniens* doctrine. See *id.*, at 430. Pp. 59–61.

(c) The Court declines to consider whether a defendant in a breach-of-contract action could obtain dismissal under Rule 12(b)(6) if the plaintiff files suit in a district other than the one specified in a forum-selection clause. Petitioner did not file a motion to dismiss under Rule 12(b)(6), and the parties did not brief the Rule's application. P. 61.

2. When a defendant files a § 1404(a) motion, a district court should transfer the case unless extraordinary circumstances unrelated to the

convenience of the parties clearly disfavor a transfer. No such exceptional factors appear to be present in this case. Pp. 62–68.

(a) Normally, a district court considering a § 1404(a) motion must evaluate both the private interests of the parties and public-interest considerations. But when the parties' contract contains a valid forum-selection clause, that clause "represents [their] agreement as to the most proper forum," *Stewart*, 487 U. S., at 31, and should be "given controlling weight in all but the most exceptional cases," *id.*, at 33 (KENNEDY, J., concurring). The presence of a valid forum-selection clause requires district courts to adjust their usual § 1404(a) analysis in three ways. First, the plaintiff's choice of forum merits no weight, and the plaintiff, as the party defying the forum-selection clause, has the burden of establishing that transfer to the forum for which the parties bargained is unwarranted. Second, the court should not consider the parties' private interests aside from those embodied in the forum-selection clause; it may consider only public interests. Because public-interest factors will rarely defeat a transfer motion, the practical result is that forum-selection clauses should control except in unusual cases. Third, when a party bound by a forum-selection clause flouts its contractual obligation and files suit in a different forum, a § 1404(a) transfer of venue will not carry with it the original venue's choice-of-law rules. See *Van Dusen*, *supra*, at 639. Pp. 62–66.

(b) Here, the District Court's application of § 1404(a) did not comport with these principles. The court improperly placed the burden on Atlantic Marine to prove that transfer to the parties' contractually preselected forum was appropriate instead of requiring J-Crew, the party acting in violation of the forum-selection clause, to show that public-interest factors overwhelmingly disfavored a transfer. It also erred in giving weight to the parties' private interests outside those expressed in the forum-selection clause. And its holding that public interests favored keeping the case in Texas because Texas contract law is more familiar to federal judges in Texas than to those in Virginia rested in part on the District Court's mistaken belief that the Virginia federal court would have been required to apply Texas' choice-of-law rules instead of Virginia's. Pp. 66–68.

701 F. 3d 736, reversed and remanded.

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

W. Scott Hastings argued the cause for petitioner. With him on the briefs were *Thomas F. Loose*, *Christopher M. Boeck*, and *Michael L. Sterling.*

William R. Allensworth argued the cause for respondents. With him on the brief for respondent J-Crew Management, Inc., were *Chad B. Simon* and *Joe R. Basham.**

JUSTICE ALITO delivered the opinion of the Court.

The question in this case concerns the procedure that is available for a defendant in a civil case who seeks to enforce a forum-selection clause. We reject petitioner's argument that such a clause may be enforced by a motion to dismiss under 28 U. S. C. § 1406(a) or Rule 12(b)(3) of the Federal Rules of Civil Procedure. Instead, a forum-selection clause may be enforced by a motion to transfer under § 1404(a) (2006 ed., Supp. V), which provides that "[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented." When a defendant files such a motion, we conclude, a district court should transfer the case unless extraordinary circumstances unrelated to the convenience of the parties clearly disfavor a transfer. In the present case, both the District Court and the Court of Appeals misunderstood the standards to be applied in adjudicating a § 1404(a) motion in a case involving a forum-selection clause, and we therefore reverse the judgment below.

I

Petitioner Atlantic Marine Construction Co., a Virginia corporation with its principal place of business in Virginia,

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*Briefs of *amici curiae* urging reversal were filed for the Chamber of Commerce of the United States of America by *Carter G. Phillips, Michael A. Nemeroff, Jacqueline G. Cooper,* and *Kate Comerford Todd*; and for the New England Legal Foundation et al. by *Benjamin G. Robbins* and *Martin J. Newhouse.* A brief of *amicus curiae* urging vacatur was filed for Stephen E. Sachs by *Jeffrey S. Bucholtz* and *Mr. Sachs, pro se.*

Roger P. Sugarman filed a brief for the American Subcontractors Association as *amicus curiae* urging affirmance.

entered into a contract with the United States Army Corps of Engineers to construct a child-development center at Fort Hood in the Western District of Texas. Atlantic Marine then entered into a subcontract with respondent J-Crew Management, Inc., a Texas corporation, for work on the project. This subcontract included a forum-selection clause, which stated that all disputes between the parties "'shall be litigated in the Circuit Court for the City of Norfolk, Virginia, or the United States District Court for the Eastern District of Virginia, Norfolk Division.'" *In re Atlantic Marine Constr. Co.*, 701 F. 3d 736, 737–738 (CA5 2012).

When a dispute about payment under the subcontract arose, however, J-Crew sued Atlantic Marine in the Western District of Texas, invoking that court's diversity jurisdiction. Atlantic Marine moved to dismiss the suit, arguing that the forum-selection clause rendered venue in the Western District of Texas "wrong" under § 1406(a) and "improper" under Federal Rule of Civil Procedure 12(b)(3). In the alternative, Atlantic Marine moved to transfer the case to the Eastern District of Virginia under § 1404(a). J-Crew opposed these motions.

The District Court denied both motions. It first concluded that § 1404(a) is the exclusive mechanism for enforcing a forum-selection clause that points to another federal forum. The District Court then held that Atlantic Marine bore the burden of establishing that a transfer would be appropriate under § 1404(a) and that the court would "consider a nonexhaustive and nonexclusive list of public and private interest factors," of which the "forum-selection clause [was] only one such factor." *United States ex rel. J-Crew Management, Inc.* v. *Atlantic Marine Constr. Co.*, 2012 WL 8499879, *5 (WD Tex., Aug. 6, 2012). Giving particular weight to its findings that "compulsory process will not be available for the majority of J-Crew's witnesses" and that there would be "significant expense for those willing witnesses," the District Court held that Atlantic Marine had failed to carry its

burden of showing that transfer "would be in the interest of justice or increase the convenience to the parties and their witnesses." *Id.*, at *7–*8; see also 701 F. 3d, at 743.

Atlantic Marine petitioned the Court of Appeals for a writ of mandamus directing the District Court to dismiss the case under § 1406(a) or to transfer the case to the Eastern District of Virginia under § 1404(a). The Court of Appeals denied Atlantic Marine's petition because Atlantic Marine had not established a "'clear and indisputable'" right to relief. *Id.*, at 738; see *Cheney* v. *United States Dist. Court for D. C.*, 542 U. S. 367, 381 (2004) (mandamus "petitioner must satisfy the burden of showing that [his] right to issuance of the writ is clear and indisputable" (internal quotation marks omitted; brackets in original)). Relying on *Stewart Organization, Inc.* v. *Ricoh Corp.*, 487 U. S. 22 (1988), the Court of Appeals agreed with the District Court that § 1404(a) is the exclusive mechanism for enforcing a forum-selection clause that points to another federal forum when venue is otherwise proper in the district where the case was brought. See 701 F. 3d, at 739–741.[1] The court stated, however, that if a forum-selection clause points to a nonfederal forum, dismissal under Rule 12(b)(3) would be the correct mechanism to enforce the clause because § 1404(a) by its terms does not permit transfer to any tribunal other than another federal court. *Id.*, at 740. The Court of Appeals then concluded that the District Court had not clearly abused its discretion in refusing to transfer the case after conducting the balance-of-interests analysis required by § 1404(a). *Id.*, at 741–743; see *Cheney*, *supra*, at 380 (permitting mandamus relief to correct "a clear abuse of discretion" (internal quotation marks omitted)). That was so even though there was no

[1] Venue was otherwise proper in the Western District of Texas because the subcontract at issue in the suit was entered into and was to be performed in that district. See *United States ex rel. J-Crew Management, Inc.* v. *Atlantic Marine Constr. Co.*, 2012 WL 8499879, *5 (WD Tex., Aug. 6, 2012) (citing 28 U. S. C. § 1391(b)(2)).

dispute that the forum-selection clause was valid. See 701 F. 3d, at 742; *id.*, at 744 (concurring opinion). We granted certiorari. 569 U. S. 903 (2013).

II

Atlantic Marine contends that a party may enforce a forum-selection clause by seeking dismissal of the suit under § 1406(a) and Rule 12(b)(3). We disagree. Section 1406(a) and Rule 12(b)(3) allow dismissal only when venue is "wrong" or "improper." Whether venue is "wrong" or "improper" depends exclusively on whether the court in which the case was brought satisfies the requirements of federal venue laws, and those provisions say nothing about a forum-selection clause.

A

Section 1406(a) provides that "[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." Rule 12(b)(3) states that a party may move to dismiss a case for "improper venue." These provisions therefore authorize dismissal only when venue is "wrong" or "improper" in the forum in which it was brought.

This question—whether venue is "wrong" or "improper"—is generally governed by 28 U. S. C. § 1391 (2006 ed., Supp. V).[2] That provision states that "[e]xcept as otherwise provided by *law* . . . this section *shall* govern the venue of *all civil actions* brought in district courts of the United States." § 1391(a)(1) (emphasis added). It further provides that "[a] civil action may be brought in—(1) a judicial district in which any defendant resides, if all defendants are resi-

[2] Section 1391 governs "venue generally," that is, in cases where a more specific venue provision does not apply. Cf., *e. g.*, § 1400 (identifying proper venue for copyright and patent suits).

dents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action." § 1391(b).[3] When venue is challenged, the court must determine whether the case falls within one of the three categories set out in § 1391(b). If it does, venue is proper; if it does not, venue is improper, and the case must be dismissed or transferred under § 1406(a). Whether the parties entered into a contract containing a forum-selection clause has no bearing on whether a case falls into one of the categories of cases listed in § 1391(b). As a result, a case filed in a district that falls within § 1391 may not be dismissed under § 1406(a) or Rule 12(b)(3).

Petitioner's contrary view improperly conflates the special statutory term "venue" and the word "forum." It is certainly true that, in some contexts, the word "venue" is used synonymously with the term "forum," but § 1391 makes clear that venue in "all civil actions" must be determined in accordance with the criteria outlined in that section. That language cannot reasonably be read to allow judicial consideration of other, extrastatutory limitations on the forum in which a case may be brought.

The structure of the federal venue provisions confirms that they alone define whether venue exists in a given forum. In particular, the venue statutes reflect Congress' intent that venue should always lie in *some* federal court whenever federal courts have personal jurisdiction over the defendant. The first two paragraphs of § 1391(b) define the preferred judicial districts for venue in a typical case, but the third paragraph provides a fallback option: If no other venue is

[3] Other provisions of § 1391 define the requirements for proper venue in particular circumstances.

proper, then venue will lie in "*any judicial district* in which any defendant is subject to the court's personal jurisdiction." (Emphasis added.) The statute thereby ensures that so long as a federal court has personal jurisdiction over the defendant, venue will always lie somewhere. As we have previously noted, "Congress does not in general intend to create venue gaps, which take away with one hand what Congress has given by way of jurisdictional grant with the other." *Smith* v. *United States*, 507 U. S. 197, 203 (1993) (internal quotation marks omitted). Yet petitioner's approach would mean that in some number of cases—those in which the forum-selection clause points to a state or foreign court—venue would not lie in any federal district. That would not comport with the statute's design, which contemplates that venue will always exist in some federal court.

The conclusion that venue is proper so long as the requirements of § 1391(b) are met, irrespective of any forum-selection clause, also follows from our prior decisions construing the federal venue statutes. In *Van Dusen* v. *Barrack*, 376 U. S. 612 (1964), we considered the meaning of § 1404(a), which authorizes a district court to "transfer any civil action to any other district or division where it might have been brought." The question in *Van Dusen* was whether § 1404(a) allows transfer to a district in which venue is proper under § 1391 but in which the case could not have been pursued in light of substantive state-law limitations on the suit. See *id.*, at 614–615. In holding that transfer is permissible in that context, we construed the phrase "where it might have been brought" to refer to "the federal laws delimiting the districts in which such an action 'may be brought,'" *id.*, at 624, noting that "the phrase 'may be brought' recurs at least 10 times" in §§ 1391–1406, *id.*, at 622. We perceived "no valid reason for reading the words 'where it might have been brought' to narrow the range of permissible federal forums beyond those permitted by federal venue statutes." *Id.*, at 623.

As we noted in *Van Dusen*, § 1406(a) "shares the same statutory context" as § 1404(a) and "contain[s] a similar phrase." *Id.*, at 621, n. 11. It instructs a court to transfer a case from the "wrong" district to a district "in which it could have been brought." The most reasonable interpretation of that provision is that a district cannot be "wrong" if it is one in which the case could have been brought under § 1391. Under the construction of the venue laws we adopted in *Van Dusen*, a "wrong" district is therefore a district other than "those districts in which Congress has provided *by its venue statutes* that the action 'may be brought.'" *Id.*, at 618 (emphasis added). If the federal venue statutes establish that suit may be brought in a particular district, a contractual bar cannot render venue in that district "wrong."

Our holding also finds support in *Stewart*, 487 U. S. 22. As here, the parties in *Stewart* had included a forum-selection clause in the relevant contract, but the plaintiff filed suit in a different federal district. The defendant had initially moved to transfer the case or, in the alternative, to dismiss for improper venue under § 1406(a), but by the time the case reached this Court, the defendant had abandoned its § 1406(a) argument and sought only transfer under § 1404(a). We rejected the plaintiff's argument that state law governs a motion to transfer venue pursuant to a forum-selection clause, concluding instead that "federal law, specifically 28 U. S. C. § 1404(a), governs the District Court's decision whether to give effect to the parties' forum-selection clause." *Id.*, at 32. We went on to explain that a "motion to transfer under § 1404(a) . . . calls on the district court to weigh in the balance a number of case-specific factors" and that the "presence of a forum-selection clause . . . will be a significant factor that figures centrally in the district court's calculus." *Id.*, at 29.

The question whether venue in the original court was "wrong" under § 1406(a) was not before the Court, but we

wrote in a footnote that "[t]he parties do not dispute that the District Court properly denied the motion to dismiss the case for improper venue under 28 U. S. C. § 1406(a) because respondent apparently does business in the Northern District of Alabama. See 28 U. S. C. § 1391(c) (venue proper in judicial district in which corporation is doing business)." *Id.*, at 28, n. 8. In other words, because § 1391 made venue proper, venue could not be "wrong" for purposes of § 1406(a). Though dictum, the Court's observation supports the holding we reach today. A contrary view would all but drain *Stewart* of any significance. If a forum-selection clause rendered venue in all other federal courts "wrong," a defendant could always obtain automatic dismissal or transfer under § 1406(a) and would not have any reason to resort to § 1404(a). *Stewart*'s holding would be limited to the presumably rare case in which the defendant inexplicably fails to file a motion under § 1406(a) or Rule 12(b)(3).

B

Although a forum-selection clause does not render venue in a court "wrong" or "improper" within the meaning of § 1406(a) or Rule 12(b)(3), the clause may be enforced through a motion to transfer under § 1404(a). That provision states that "[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented." Unlike § 1406(a), § 1404(a) does not condition transfer on the initial forum's being "wrong." And it permits transfer to any district where venue is also proper (*i. e.*, "where [the case] might have been brought") or to any other district to which the parties have agreed by contract or stipulation.

Section 1404(a) therefore provides a mechanism for enforcement of forum-selection clauses that point to a particular federal district. And for the reasons we address in Part III, *infra*, a proper application of § 1404(a) requires that a

forum-selection clause be "given controlling weight in all but the most exceptional cases." *Stewart*, *supra*, at 33 (KENNEDY, J., concurring).

Atlantic Marine argues that § 1404(a) is not a suitable mechanism to enforce forum-selection clauses because that provision cannot provide for transfer when a forum-selection clause specifies a state or foreign tribunal, see Brief for Petitioner 18–19, and we agree with Atlantic Marine that the Court of Appeals failed to provide a sound answer to this problem. The Court of Appeals opined that a forum-selection clause pointing to a nonfederal forum should be enforced through Rule 12(b)(3), which permits a party to move for dismissal of a case based on "improper venue." 701 F. 3d, at 740. As Atlantic Marine persuasively argues, however, that conclusion cannot be reconciled with our construction of the term "improper venue" in § 1406 to refer only to a forum that does not satisfy federal venue laws. If venue is proper under federal venue rules, it does not matter for the purpose of Rule 12(b)(3) whether the forum-selection clause points to a federal or a nonfederal forum.

Instead, the appropriate way to enforce a forum-selection clause pointing to a state or foreign forum is through the doctrine of *forum non conveniens*. Section 1404(a) is merely a codification of the doctrine of *forum non conveniens* for the subset of cases in which the transferee forum is within the federal court system; in such cases, Congress has replaced the traditional remedy of outright dismissal with transfer. See *Sinochem Int'l Co.* v. *Malaysia Int'l Shipping Corp.*, 549 U. S. 422, 430 (2007) ("For the federal court system, Congress has codified the doctrine . . . "); see also notes following § 1404 (Historical and Revision Notes) (Section 1404(a) "was drafted in accordance with the doctrine of forum non conveniens, permitting transfer to a more convenient forum, even though the venue is proper"). For the remaining set of cases calling for a nonfederal forum, § 1404(a) has no application, but the residual doctrine of

forum non conveniens "has continuing application in federal courts." *Sinochem*, 549 U. S., at 430 (internal quotation marks and brackets omitted); see also *ibid.* (noting that federal courts invoke *forum non conveniens* "in cases where the alternative forum is abroad, and perhaps in rare instances where a state or territorial court serves litigational convenience best" (internal quotation marks and citation omitted)). And because both § 1404(a) and the *forum non conveniens* doctrine from which it derives entail the same balancing-of-interests standard, courts should evaluate a forum-selection clause pointing to a nonfederal forum in the same way that they evaluate a forum-selection clause pointing to a federal forum. See *Stewart*, 487 U. S., at 37 (SCALIA, J., dissenting) (Section 1404(a) "did not change 'the relevant factors' which federal courts used to consider under the doctrine of *forum non conveniens*" (quoting *Norwood* v. *Kirkpatrick*, 349 U. S. 29, 32 (1955))).

C

An *amicus* before the Court argues that a defendant in a breach-of-contract action should be able to obtain dismissal under Rule 12(b)(6) if the plaintiff files suit in a district other than the one specified in a valid forum-selection clause. See Brief for Stephen E. Sachs. Petitioner, however, did not file a motion under Rule 12(b)(6), and the parties did not brief the Rule's application to this case at any stage of this litigation. We therefore will not consider it. Even if a defendant could use Rule 12(b)(6) to enforce a forum-selection clause, that would not change our conclusions that § 1406(a) and Rule 12(b)(3) are not proper mechanisms to enforce a forum-selection clause and that § 1404(a) and the *forum non conveniens* doctrine provide appropriate enforcement mechanisms.[4]

[4] We observe, moreover, that a motion under Rule 12(b)(6), unlike a motion under § 1404(a) or the *forum non conveniens* doctrine, may lead to a jury trial on venue if issues of material fact relating to the validity of the

III

Although the Court of Appeals correctly identified § 1404(a) as the appropriate provision to enforce the forum-selection clause in this case, the Court of Appeals erred in failing to make the adjustments required in a § 1404(a) analysis when the transfer motion is premised on a forum-selection clause. When the parties have agreed to a valid forum-selection clause, a district court should ordinarily transfer the case to the forum specified in that clause.[5] Only under extraordinary circumstances unrelated to the convenience of the parties should a § 1404(a) motion be denied. And no such exceptional factors appear to be present in this case.

A

In the typical case not involving a forum-selection clause, a district court considering a § 1404(a) motion (or a *forum non conveniens* motion) must evaluate both the convenience of the parties and various public-interest considerations.[6] Ordinarily, the district court would weigh the relevant fac-

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forum-selection clause arise. Even if Professor Sachs is ultimately correct, therefore, defendants would have sensible reasons to invoke § 1404(a) or the *forum non conveniens* doctrine in addition to Rule 12(b)(6).

[5] Our analysis presupposes a contractually valid forum-selection clause.

[6] Factors relating to the parties' private interests include "relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive." *Piper Aircraft Co.* v. *Reyno*, 454 U. S. 235, 241, n. 6 (1981) (internal quotation marks omitted). Public-interest factors may include "the administrative difficulties flowing from court congestion; the local interest in having localized controversies decided at home; [and] the interest in having the trial of a diversity case in a forum that is at home with the law." *Ibid.* (internal quotation marks omitted). The court must also give some weight to the plaintiffs' choice of forum. See *Norwood* v. *Kirkpatrick*, 349 U. S. 29, 32 (1955).

tors and decide whether, on balance, a transfer would serve "the convenience of parties and witnesses" and otherwise promote "the interest of justice." § 1404(a).

The calculus changes, however, when the parties' contract contains a valid forum-selection clause, which "represents the parties' agreement as to the most proper forum." *Stewart*, 487 U. S., at 31. The "enforcement of valid forum-selection clauses, bargained for by the parties, protects their legitimate expectations and furthers vital interests of the justice system." *Id.*, at 33 (KENNEDY, J., concurring). For that reason, and because the overarching consideration under § 1404(a) is whether a transfer would promote "the interest of justice," "a valid forum-selection clause [should be] given controlling weight in all but the most exceptional cases." *Id.*, at 33 (same). The presence of a valid forum-selection clause requires district courts to adjust their usual § 1404(a) analysis in three ways.

First, the plaintiff's choice of forum merits no weight. Rather, as the party defying the forum-selection clause, the plaintiff bears the burden of establishing that transfer to the forum for which the parties bargained is unwarranted. Because plaintiffs are ordinarily allowed to select whatever forum they consider most advantageous (consistent with jurisdictional and venue limitations), we have termed their selection the "plaintiff's venue privilege." *Van Dusen*, 376 U. S., at 635.[7] But when a plaintiff agrees by contract to bring suit only in a specified forum—presumably in exchange for other binding promises by the defendant—the plaintiff has effectively exercised its "venue privilege" before a dispute arises. Only that initial choice deserves deference, and

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[7] We note that this "privilege" exists within the confines of statutory limitations, and "[i]n most instances, the purpose of statutorily specified venue is to protect the *defendant* against the risk that a plaintiff will select an unfair or inconvenient place of trial." *Leroy* v. *Great Western United Corp.*, 443 U. S. 173, 183–184 (1979).

the plaintiff must bear the burden of showing why the court should not transfer the case to the forum to which the parties agreed.

Second, a court evaluating a defendant's § 1404(a) motion to transfer based on a forum-selection clause should not consider arguments about the parties' private interests. When parties agree to a forum-selection clause, they waive the right to challenge the preselected forum as inconvenient or less convenient for themselves or their witnesses, or for their pursuit of the litigation. A court accordingly must deem the private-interest factors to weigh entirely in favor of the preselected forum. As we have explained in a different but "'instructive'" context, *Stewart*, *supra*, at 28, "[w]hatever 'inconvenience' [the parties] would suffer by being forced to litigate in the contractual forum as [they] agreed to do was clearly foreseeable at the time of contracting." *The Bremen* v. *Zapata Off-Shore Co.*, 407 U. S. 1, 17–18 (1972); see also *Stewart*, *supra*, at 33 (KENNEDY, J., concurring) (stating that *Bremen*'s "reasoning applies with much force to federal courts sitting in diversity").

As a consequence, a district court may consider arguments about public-interest factors only. See n. 6, *supra*. Because those factors will rarely defeat a transfer motion, the practical result is that forum-selection clauses should control except in unusual cases. Although it is "conceivable in a particular case" that the district court "would refuse to transfer a case notwithstanding the counterweight of a forum-selection clause," *Stewart*, *supra*, at 30–31, such cases will not be common.

Third, when a party bound by a forum-selection clause flouts its contractual obligation and files suit in a different forum, a § 1404(a) transfer of venue will not carry with it the original venue's choice-of-law rules—a factor that in some circumstances may affect public-interest considerations. See *Piper Aircraft Co.* v. *Reyno*, 454 U. S. 235, 241, n. 6 (1981) (listing a court's familiarity with the "law that must

govern the action" as a potential factor). A federal court sitting in diversity ordinarily must follow the choice-of-law rules of the State in which it sits. See *Klaxon Co.* v. *Stentor Elec. Mfg. Co.*, 313 U. S. 487, 494–496 (1941). However, we previously identified an exception to that principle for § 1404(a) transfers, requiring that the state law applicable in the original court also apply in the transferee court. See *Van Dusen*, 376 U. S., at 639. We deemed that exception necessary to prevent "defendants, properly subjected to suit in the transferor State," from "invok[ing] § 1404(a) to gain the benefits of the laws of another jurisdiction . . . ." *Id.*, at 638; see *Ferens* v. *John Deere Co.*, 494 U. S. 516, 522 (1990) (extending the *Van Dusen* rule to § 1404(a) motions by plaintiffs).

The policies motivating our exception to the *Klaxon* rule for § 1404(a) transfers, however, do not support an extension to cases where a defendant's motion is premised on enforcement of a valid forum-selection clause. See *Ferens*, *supra*, at 523. To the contrary, those considerations lead us to reject the rule that the law of the court in which the plaintiff inappropriately filed suit should follow the case to the forum contractually selected by the parties. In *Van Dusen*, we were concerned that, through a § 1404(a) transfer, a defendant could "defeat the state-law advantages that might accrue from the exercise of [the plaintiff's] venue privilege." 376 U. S., at 635. But as discussed above, a plaintiff who files suit in violation of a forum-selection clause enjoys no such "privilege" with respect to its choice of forum, and therefore it is entitled to no concomitant "state-law advantages." Not only would it be inequitable to allow the plaintiff to fasten its choice of substantive law to the venue transfer, but it would also encourage gamesmanship. Because "§ 1404(a) should not create or multiply opportunities for forum shopping," *Ferens*, *supra*, at 523, we will not apply the *Van Dusen* rule when a transfer stems from enforcement of a forum-selection clause: The court in the contractually se-

lected venue should not apply the law of the transferor venue to which the parties waived their right.[8]

When parties have contracted in advance to litigate disputes in a particular forum, courts should not unnecessarily disrupt the parties' settled expectations. A forum-selection clause, after all, may have figured centrally in the parties' negotiations and may have affected how they set monetary and other contractual terms; it may, in fact, have been a critical factor in their agreement to do business together in the first place. In all but the most unusual cases, therefore, "the interest of justice" is served by holding parties to their bargain.

B

The District Court's application of § 1404(a) in this case did not comport with these principles. The District Court improperly placed the burden on Atlantic Marine to prove that transfer to the parties' contractually preselected forum was appropriate. As the party acting in violation of the forum-selection clause, J-Crew must bear the burden of showing that public-interest factors overwhelmingly disfavor a transfer.

[8] For the reasons detailed above, see Part II–B, *supra*, the same standards should apply to motions to dismiss for *forum non conveniens* in cases involving valid forum-selection clauses pointing to state or foreign forums. We have noted in contexts unrelated to forum-selection clauses that a defendant "invoking *forum non conveniens* ordinarily bears a heavy burden in opposing the plaintiff's chosen forum." *Sinochem Int'l Co.* v. *Malaysia Int'l Shipping Co.*, 549 U. S. 422, 430 (2007). That is because of the "hars[h] result" of that doctrine: Unlike a § 1404(a) motion, a successful motion under *forum non conveniens* requires dismissal of the case. *Norwood*, 349 U. S., at 32. That inconveniences plaintiffs in several respects and even "makes it possible for [plaintiffs] to lose out completely, through the running of the statute of limitations in the forum finally deemed appropriate." *Id.*, at 31 (internal quotation marks omitted). Such caution is not warranted, however, when the plaintiff has violated a contractual obligation by filing suit in a forum other than the one specified in a valid forum-selection clause. In such a case, dismissal would work no injustice on the plaintiff.

The District Court also erred in giving weight to arguments about the parties' private interests, given that all private interests, as expressed in the forum-selection clause, weigh in favor of the transfer. The District Court stated that the private-interest factors "militat[e] against a transfer to Virginia" because "compulsory process will not be available for the majority of J-Crew's witnesses" and there will be "significant expense for those willing witnesses." 2012 WL 8499879, *6–*7; see 701 F. 3d, at 743 (noting District Court's "concer[n] with J-Crew's ability to secure witnesses for trial"). But when J-Crew entered into a contract to litigate all disputes in Virginia, it knew that a distant forum might hinder its ability to call certain witnesses and might impose other burdens on its litigation efforts. It nevertheless promised to resolve its disputes in Virginia, and the District Court should not have given any weight to J-Crew's current claims of inconvenience.

The District Court also held that the public-interest factors weighed in favor of keeping the case in Texas because Texas contract law is more familiar to federal judges in Texas than to their federal colleagues in Virginia. That ruling, however, rested in part on the District Court's belief that the federal court sitting in Virginia would have been required to apply Texas' choice-of-law rules, which in this case pointed to Texas contract law. See 2012 WL 8499879, *8 (citing *Van Dusen*, *supra*, at 639). But for the reasons we have explained, the transferee court would apply Virginia choice-of-law rules. It is true that even these Virginia rules may point to the contract law of Texas, as the State in which the contract was formed. But at minimum, the fact that the Virginia court will not be required to apply Texas choice-of-law rules reduces whatever weight the District Court might have given to the public-interest factor that looks to the familiarity of the transferee court with the applicable law. And, in any event, federal judges routinely apply the law of a State other than the State in which they sit. We are not

aware of any exceptionally arcane features of Texas contract law that are likely to defy comprehension by a federal judge sitting in Virginia.

* * *

We reverse the judgment of the Court of Appeals for the Fifth Circuit. Although no public-interest factors that might support the denial of Atlantic Marine's motion to transfer are apparent on the record before us, we remand the case for the courts below to decide that question.

It is so ordered.

Syllabus

SPRINT COMMUNICATIONS, INC. *v.* JACOBS ET AL.

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

No. 12–815. Argued November 5, 2013—Decided December 10, 2013

Sprint Communications, Inc. (Sprint), a national telecommunications service provider, withheld payment of intercarrier access fees imposed by Windstream Iowa Communications, Inc. (Windstream), a local telecommunications carrier, for long distance Voice over Internet Protocol (VoIP) calls, after concluding that the Telecommunications Act of 1996 preempted intrastate regulation of VoIP traffic. Windstream responded by threatening to block all Sprint customer calls, which led Sprint to ask the Iowa Utilities Board (IUB) to enjoin Windstream from discontinuing service to Sprint. Windstream retracted its threat, and Sprint moved to withdraw its complaint. Concerned that the dispute would recur, the IUB continued the proceedings in order to resolve the question whether VoIP calls are subject to intrastate regulation. Rejecting Sprint's argument that this question was governed by federal law, the IUB ruled that intrastate fees applied to VoIP calls.

Sprint sued respondents, IUB members (collectively IUB), in Federal District Court, seeking a declaration that the Telecommunications Act of 1996 preempted the IUB's decision. As relief, Sprint sought an injunction against enforcement of the IUB's order. Sprint also sought review of the IUB's order in Iowa state court, reiterating the preemption argument made in Sprint's federal-court complaint and asserting several other claims. Invoking *Younger* v. *Harris*, 401 U. S. 37, the Federal District Court abstained from adjudicating Sprint's complaint in deference to the parallel state-court proceeding. The Eighth Circuit affirmed the District Court's abstention decision, concluding that *Younger* abstention was required because the ongoing state-court review concerned Iowa's important interest in regulating and enforcing state utility rates.

Held: This case does not fall within any of the three classes of exceptional cases for which *Younger* abstention is appropriate. Pp. 76–82.

(a) The District Court had jurisdiction to decide whether federal law preempted the IUB's decision, see *Verizon Md. Inc.* v. *Public Serv. Comm'n of Md.*, 535 U. S. 635, 642, and thus had a "virtually unflagging obligation" to hear and decide the case, *Colorado River Water Conservation Dist.* v. *United States*, 424 U. S. 800, 817. In *Younger*, this Court recognized an exception to that obligation for cases in which there is a

parallel, pending state criminal proceeding. This Court has extended *Younger* abstention to particular state civil proceedings that are akin to criminal prosecutions, see *Huffman* v. *Pursue, Ltd.*, 420 U. S. 592, or that implicate a State's interest in enforcing the orders and judgments of its courts, see *Pennzoil Co.* v. *Texaco Inc.*, 481 U. S. 1, but has reaffirmed that "only exceptional circumstances justify a federal court's refusal to decide a case in deference to the States," *New Orleans Public Service, Inc.* v. *Council of City of New Orleans*, 491 U. S. 350, 368 (*NOPSI*). *NOPSI* identified three such "exceptional circumstances." First, *Younger* precludes federal intrusion into ongoing state criminal prosecutions. See 491 U. S., at 368. Second, certain "civil enforcement proceedings" warrant *Younger* abstention. 491 U. S., at 368. Finally, federal courts should refrain from interfering with pending "civil proceedings involving certain orders . . . uniquely in furtherance of the state courts' ability to perform their judicial functions." *Ibid.* This Court has not applied *Younger* outside these three "exceptional" categories, and rules, in accord with *NOPSI*, that they define *Younger*'s scope. Pp. 76–78.

(b) The initial IUB proceeding does not fall within any of *NOPSI*'s three exceptional categories and therefore does not trigger *Younger* abstention. The first and third categories plainly do not accommodate the IUB's proceeding, which was civil, not criminal, in character, and which did not touch on a state court's ability to perform its judicial function. Nor is the IUB's order an act of civil enforcement of the kind to which *Younger* has been extended. The IUB proceeding is not "akin to a criminal prosecution." *Huffman*, 420 U. S., at 604. Nor was it initiated by "the State in its sovereign capacity," *Trainor* v. *Hernandez*, 431 U. S. 434, 444, to sanction Sprint for some wrongful act, see, *e. g.*, *Middlesex County Ethics Comm.* v. *Garden State Bar Assn.*, 457 U. S. 423, 433–434. Rather, the action was initiated by Sprint, a private corporation. No state authority conducted an investigation into Sprint's activities or lodged a formal complaint against Sprint.

Once Sprint withdrew the complaint that commenced administrative proceedings, the IUB argues, those proceedings became, essentially, a civil enforcement action. However, the IUB's adjudicative authority was invoked to settle a civil dispute between two private parties, not to sanction Sprint for a wrongful act.

In holding that abstention was the proper course, the Eighth Circuit misinterpreted this Court's decision in *Middlesex* to mean that *Younger* abstention is warranted whenever there is (1) "an ongoing state judicial proceeding, which (2) implicates important state interests, and (3) . . . provide[s] an adequate opportunity to raise [federal] challenges." 690 F. 3d 864, 867. In *Middlesex*, the Court invoked *Younger* to bar a fed-

eral court from entertaining a lawyer's challenge to a state ethics committee's pending investigation of the lawyer. Unlike the IUB's proceeding, however, the state ethics committee's hearing in *Middlesex* was plainly "akin to a criminal proceeding": An investigation and formal complaint preceded the hearing, an agency of the State's Supreme Court initiated the hearing, and the hearing's purpose was to determine whether the lawyer should be disciplined for failing to meet the State's professional conduct standards. 457 U. S., at 433–435. The three Middlesex conditions invoked by the Court of Appeals were therefore not dispositive; they were, instead, *additional* factors appropriately considered by the federal court before invoking *Younger*. *Younger* extends to the three "exceptional circumstances" identified in *NOPSI*, but no further. Pp. 78–82.

690 F. 3d 864, reversed.

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

Timothy J. Simeone argued the cause for petitioner. With him on the briefs were *Christopher J. Wright* and *Mark D. Davis*.

David J. Lynch argued the cause for respondents. With him on the briefs was *Mary F. Whitman*.*

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*Briefs of *amici curiae* urging reversal were filed for the Chamber of Commerce of the United States of America by *Patrick F. Philbin* and *Rachel Brand*; for CTIA–The Wireless Association by *Patricia A. Millett*, *Ruthanne M. Deutsch*, *Michael Altschul*, and *Hyland Hunt*; and for Law Professors by *Marc A. Goldman*.

Briefs of *amici curiae* urging affirmance were filed for the State of Michigan et al. by *Bill Schuette*, Attorney General of Michigan, *John J. Bursch*, Solicitor General, *Dan Schweitzer*, and *Gregory McHugh*, by *Peter K. Michael*, Interim Attorney General of Wyoming, and by the Attorneys General for their respective States as follows: *Luther Strange* of Alabama, *Thomas C. Horne* of Arizona, *John W. Suthers* of Colorado, *Samuel S. Olens* of Georgia, *David M. Louie* of Hawaii, *Lawrence G. Wasden* of Idaho, *Lisa Madigan* of Illinois, *Gregory F. Zoeller* of Indiana, *Jack Conway* of Kentucky, *Douglas F. Gansler* of Maryland, *Jim Hood* of Mississippi, *Catherine Cortez Masto* of Nevada, *Gary K. King* of New Mexico, *Kathleen G. Kane* of Pennsylvania, *Marty J. Jackley* of South Dakota, *Robert E. Cooper, Jr.*, of Tennessee, *John E. Swallow* of Utah, *William H. Sorrell* of Vermont, *Robert W. Ferguson* of Washington, and *J. B. Van Hollen* of Wisconsin; for the Iowa Office of Consumer Advocate by *Mark*

JUSTICE GINSBURG delivered the opinion of the Court.

This case involves two proceedings, one pending in state court, the other in federal court. Each seeks review of an Iowa Utilities Board (IUB or Board) order. And each presents the question whether Windstream Iowa Communications, Inc. (Windstream), a local telecommunications carrier, may impose on Sprint Communications, Inc. (Sprint), intrastate access charges for telephone calls transported via the Internet. Federal-court jurisdiction over controversies of this kind was confirmed in *Verizon Md. Inc.* v. *Public Serv. Comm'n of Md.*, 535 U. S. 635 (2002). Invoking *Younger* v. *Harris*, 401 U. S. 37 (1971), the U. S. District Court for the Southern District of Iowa abstained from adjudicating Sprint's complaint in deference to the parallel state-court proceeding, and the Court of Appeals for the Eighth Circuit affirmed the District Court's abstention decision.

We reverse the judgment of the Court of Appeals. In the main, federal courts are obliged to decide cases within the scope of federal jurisdiction. Abstention is not in order simply because a pending state-court proceeding involves the same subject matter. *New Orleans Public Service, Inc.* v. *Council of City of New Orleans*, 491 U. S. 350, 373 (1989) (*NOPSI*) ("[T]here is no doctrine that . . . pendency of state judicial proceedings excludes the federal courts."). This Court has recognized, however, certain instances in which the prospect of undue interference with state proceedings counsels against federal relief. See *id.*, at 368.

Younger exemplifies one class of cases in which federal-court abstention is required: When there is a parallel, pending state criminal proceeding, federal courts must refrain from enjoining the state prosecution. This Court has extended *Younger* abstention to particular state civil proceedings that are akin to criminal prosecutions, see *Huffman* v. *Pursue, Ltd.*, 420 U. S. 592 (1975), or that implicate a State's

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R. Schuling; and for the National Conference of State Legislatures et al. by *Kira L. Klatchko, Irene S. Zurko,* and *Lisa E. Soronen.*

interest in enforcing the orders and judgments of its courts, see *Pennzoil Co.* v. *Texaco Inc.*, 481 U. S. 1 (1987). We have cautioned, however, that federal courts ordinarily should entertain and resolve on the merits an action within the scope of a jurisdictional grant, and should not "refus[e] to decide a case in deference to the States." *NOPSI*, 491 U. S., at 368.

Circumstances fitting within the *Younger* doctrine, we have stressed, are "exceptional"; they include, as catalogued in *NOPSI*, "state criminal prosecutions," "civil enforcement proceedings," and "civil proceedings involving certain orders that are uniquely in furtherance of the state courts' ability to perform their judicial functions." 491 U. S., at 367–368. Because this case presents none of the circumstances the Court has ranked as "exceptional," the general rule governs: "[T]he pendency of an action in [a] state court is no bar to proceedings concerning the same matter in the Federal court having jurisdiction." *Colorado River Water Conservation Dist.* v. *United States*, 424 U. S. 800, 817 (1976) (quoting *McClellan* v. *Carland*, 217 U. S. 268, 282 (1910)).

I

Sprint, a national telecommunications service provider, has long paid intercarrier access fees to the Iowa communications company Windstream (formerly Iowa Telecom) for certain long distance calls placed by Sprint customers to Windstream's in-state customers. In 2009, however, Sprint decided to withhold payment for a subset of those calls, classified as Voice over Internet Protocol (VoIP), after concluding that the Telecommunications Act of 1996 preempted intrastate regulation of VoIP traffic.[1] In response, Windstream threatened to block all calls to and from Sprint customers.

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[1] The Federal Communications Commission has yet to provide its view on whether the Telecommunications Act categorically preempts intrastate access charges for VoIP calls. See *In re Connect America Fund*, 26 FCC Rcd. 17663, 18002, ¶934 (2011) (reserving the question whether all VoIP calls "must be subject exclusively to federal regulation").

Sprint filed a complaint against Windstream with the IUB asking the Board to enjoin Windstream from discontinuing service to Sprint. In Sprint's view, Iowa law entitled it to withhold payment while it contested the access charges and prohibited Windstream from carrying out its disconnection threat. In answer to Sprint's complaint, Windstream retracted its threat to discontinue serving Sprint, and Sprint moved, successfully, to withdraw its complaint. Because the conflict between Sprint and Windstream over VoIP calls was "likely to recur," however, the IUB decided to continue the proceedings to resolve the underlying legal question, *i. e.*, whether VoIP calls are subject to intrastate regulation. Order in *Sprint Communications Co.* v. *Iowa Telecommunications Servs., Inc.*, No. FCU–2010–0001 (IUB, Feb. 1, 2010), p. 6 (IUB Order). The question retained by the IUB, Sprint argued, was governed by federal law, and was not within the IUB's adjudicative jurisdiction. The IUB disagreed, ruling that the intrastate fees applied to VoIP calls.[2]

Seeking to overturn the Board's ruling, Sprint commenced two lawsuits. First, Sprint sued the members of the IUB (respondents here)[3] in their official capacities in the United States District Court for the Southern District of Iowa. In its federal-court complaint, Sprint sought a declaration that the Telecommunications Act of 1996 preempted the IUB's decision; as relief, Sprint requested an injunction against enforcement of the IUB's order. Second, Sprint petitioned for review of the IUB's order in Iowa state court. The state petition reiterated the preemption argument Sprint made in its federal-court complaint; in addition, Sprint asserted state law and procedural due process claims. Because Eighth Circuit precedent effectively required a plaintiff to exhaust state remedies before proceeding to federal court, see *Alleghany Corp.* v. *McCartney*, 896 F. 2d 1138 (1990), Sprint

[2] At the conclusion of the IUB proceedings, Sprint paid Windstream all contested fees.

[3] For convenience, we refer to respondents collectively as the IUB.

urges that it filed the state suit as a protective measure. Failing to do so, Sprint explains, risked losing the opportunity to obtain any review, federal or state, should the federal court decide to abstain after the expiration of the Iowa statute of limitations. See Brief for Petitioner 7–8.[4]

As Sprint anticipated, the IUB filed a motion asking the Federal District Court to abstain in light of the state suit, citing *Younger* v. *Harris*, 401 U. S. 37 (1971). The District Court granted the IUB's motion and dismissed the suit. The IUB's decision, and the pending state-court review of it, the District Court said, composed one "uninterruptible process" implicating important state interests. On that ground, the court ruled, *Younger* abstention was in order. *Sprint Communications Co.* v. *Berntsen*, No. 4:11–cv–00183–JAJ (SD Iowa, Aug. 1, 2011), App. to Pet. for Cert. 11a, 24a.

For the most part, the Eighth Circuit agreed with the District Court's judgment. The Court of Appeals rejected the argument, accepted by several of its sister courts, that *Younger* abstention is appropriate only when the parallel state proceedings are "coercive," rather than "remedial," in nature. 690 F. 3d 864, 868 (2012); cf. *Guillemard-Ginorio* v. *Contreras-Gómez*, 585 F. 3d 508, 522 (CA1 2009) ("[P]roceedings must be coercive, and in most cases, state-initiated, in order to warrant abstention."). Instead, the Eighth Circuit read this Court's precedent to require *Younger* abstention whenever "an ongoing state judicial proceeding . . . implicates important state interests, and . . . the state proceedings provide an adequate opportunity to raise [federal] chal-

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[4] Since we granted certiorari, the Iowa state court issued an opinion rejecting Sprint's preemption claim on the merits. *Sprint Communications Co.* v. *Iowa Utils. Bd.*, No. CV–8638, App. to Joint Supp. Brief 20a–36a (Iowa Dist. Ct., Sept. 16, 2013). The Iowa court decision does not, in the parties' view, moot this case, see Joint Supp. Brief 1, and we agree. Because Sprint intends to appeal the state-court decision, the "controversy . . . remains live." *Exxon Mobil Corp.* v. *Saudi Basic Industries Corp.*, 544 U. S. 280, 291, n. 7 (2005).

lenges." 690 F. 3d, at 867 (citing *Middlesex County Ethics Comm.* v. *Garden State Bar Assn.*, 457 U. S. 423, 432 (1982)). Those criteria were satisfied here, the appeals court held, because the ongoing state-court review of the IUB's decision concerned Iowa's "important state interest in regulating and enforcing its intrastate utility rates." 690 F. 3d, at 868. Recognizing the "possibility that the parties [might] return to federal court," however, the Court of Appeals vacated the judgment dismissing Sprint's complaint. In lieu of dismissal, the Eighth Circuit remanded the case, instructing the District Court to enter a stay during the pendency of the state-court action. *Id.*, at 869.

We granted certiorari to decide whether, consistent with our delineation of cases encompassed by the *Younger* doctrine, abstention was appropriate here. 569 U. S. 917 (2013).[5]

II

A

Neither party has questioned the District Court's jurisdiction to decide whether federal law preempted the IUB's decision, and rightly so. In *Verizon Md. Inc.* v. *Public Serv. Comm'n of Md.*, 535 U. S. 635 (2002), we reviewed a similar federal-court challenge to a state administrative adjudication. In that case, as here, the party seeking federal-court review of a state agency's decision urged that the Telecommunications Act of 1996 preempted the state action. We had "no doubt that federal courts ha[d federal question] jurisdiction under [28 U. S. C.] § 1331 to entertain such a suit," *id.*, at 642, and nothing in the Telecommunications Act detracted from that conclusion, see *id.*, at 643.

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[5] The IUB agrees with Sprint that our decision in *Burford* v. *Sun Oil Co.*, 319 U. S. 315 (1943), cannot independently sustain the Eighth Circuit's abstention analysis. See Brief for Respondents 9; cf. *New Orleans Public Service, Inc.* v. *Council of City of New Orleans*, 491 U. S. 350, 359 (1989).

Federal courts, it was early and famously said, have "no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." *Cohens* v. *Virginia*, 6 Wheat. 264, 404 (1821). Jurisdiction existing, this Court has cautioned, a federal court's "obligation" to hear and decide a case is "virtually unflagging." *Colorado River*, 424 U. S., at 817. Parallel state-court proceedings do not detract from that obligation. See *ibid.*

In *Younger*, we recognized a "far-from-novel" exception to this general rule. *NOPSI*, 491 U. S., at 364. The plaintiff in *Younger* sought federal-court adjudication of the constitutionality of the California Criminal Syndicalism Act. Requesting an injunction against the Act's enforcement, the federal-court plaintiff was at the time the defendant in a pending state criminal prosecution under the Act. In those circumstances, we said, the federal court should decline to enjoin the prosecution, absent bad faith, harassment, or a patently invalid state statute. See 401 U. S., at 53–54. Abstention was in order, we explained, under "the basic doctrine of equity jurisprudence that courts of equity should not act . . . to restrain a criminal prosecution, when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief." *Id.*, at 43–44. "[R]estraining equity jurisdiction within narrow limits," the Court observed, would "prevent erosion of the role of the jury and avoid a duplication of legal proceedings and legal sanctions." *Id.*, at 44. We explained as well that this doctrine was "reinforced" by the notion of "'comity,' that is, a proper respect for state functions." *Ibid.*

We have since applied *Younger* to bar federal relief in certain civil actions. *Huffman* v. *Pursue, Ltd.*, 420 U. S. 592 (1975), is the pathmarking decision. There, Ohio officials brought a civil action in state court to abate the showing of obscene movies in Pursue's theater. Because the State was a party and the proceeding was "in aid of and closely related

to [the State's] criminal statutes," the Court held *Younger* abstention appropriate. 420 U. S., at 604.

More recently, in *NOPSI*, 491 U. S., at 368, the Court had occasion to review and restate our *Younger* jurisprudence. *NOPSI* addressed and rejected an argument that a federal court should refuse to exercise jurisdiction to review a state council's ratemaking decision. "[O]nly exceptional circumstances," we reaffirmed, "justify a federal court's refusal to decide a case in deference to the States." 491 U. S., at 368. Those "exceptional circumstances" exist, the Court determined after surveying prior decisions, in three types of proceedings. First, *Younger* precluded federal intrusion into ongoing state criminal prosecutions. See 491 U. S., at 368. Second, certain "civil enforcement proceedings" warranted abstention. *Ibid.* (citing, *e. g.*, *Huffman*, 420 U. S., at 604). Finally, federal courts refrained from interfering with pending "civil proceedings involving certain orders . . . uniquely in furtherance of the state courts' ability to perform their judicial functions." 491 U. S., at 368 (citing *Juidice* v. *Vail*, 430 U. S. 327, 336, n. 12 (1977), and *Pennzoil Co.*, 481 U. S., at 13). We have not applied *Younger* outside these three "exceptional" categories, and today hold, in accord with *NOPSI*, that they define *Younger*'s scope.

B

The IUB does not assert that the Iowa state court's review of the Board decision, considered alone, implicates *Younger*. Rather, the initial administrative proceeding justifies staying any action in federal court, the IUB contends, until the state review process has concluded. The same argument was advanced in *NOPSI*. 491 U. S., at 368. We will assume without deciding, as the Court did in *NOPSI*, that an administrative adjudication and the subsequent state court's review of it count as a "unitary process" for *Younger* purposes. 491 U. S., at 369. The question remains, however, whether the

initial IUB proceeding is of the "sort . . . entitled to *Younger* treatment." *Ibid.*

The IUB proceeding, we conclude, does not fall within any of the three exceptional categories described in *NOPSI* and therefore does not trigger *Younger* abstention. The first and third categories plainly do not accommodate the IUB's proceeding. That proceeding was civil, not criminal, in character, and it did not touch on a state court's ability to perform its judicial function. Cf. *Juidice*, 430 U. S., at 336, n. 12 (civil contempt order); *Pennzoil*, 481 U. S., at 13 (requirement for posting bond pending appeal).

Nor does the IUB's order rank as an act of civil enforcement of the kind to which *Younger* has been extended. Our decisions applying *Younger* to instances of civil enforcement have generally concerned state proceedings "akin to a criminal prosecution" in "important respects." *Huffman*, 420 U. S., at 604. See also *Middlesex*, 457 U. S., at 432 (*Younger* abstention appropriate where "noncriminal proceedings bear a close relationship to proceedings criminal in nature"). Such enforcement actions are characteristically initiated to sanction the federal plaintiff, *i. e.*, the party challenging the state action, for some wrongful act. See, *e. g.*, *Middlesex*, 457 U. S., at 433–434 (state-initiated disciplinary proceedings against lawyer for violation of state ethics rules). In cases of this genre, a state actor is routinely a party to the state proceeding and often initiates the action. See, *e. g.*, *Ohio Civil Rights Comm'n* v. *Dayton Christian Schools, Inc.*, 477 U. S. 619 (1986) (state-initiated administrative proceedings to enforce state civil rights laws); *Moore* v. *Sims*, 442 U. S. 415, 419–420 (1979) (state-initiated proceeding to gain custody of children allegedly abused by their parents); *Trainor* v. *Hernandez*, 431 U. S. 434, 444 (1977) (civil proceeding "brought by the State in its sovereign capacity" to recover welfare payments defendants had allegedly obtained by fraud); *Huffman*, 420 U. S., at 598 (state-initiated proceeding to enforce obscenity laws). Investigations are commonly involved,

often culminating in the filing of a formal complaint or charges. See, *e. g.*, *Dayton*, 477 U. S., at 624 (noting preliminary investigation and complaint); *Middlesex*, 457 U. S., at 433 (same).

The IUB proceeding does not resemble the state enforcement actions this Court has found appropriate for *Younger* abstention. It is not "akin to a criminal prosecution." *Huffman*, 420 U. S., at 604. Nor was it initiated by "the State in its sovereign capacity." *Trainor*, 431 U. S., at 444. A private corporation, Sprint, initiated the action. No state authority conducted an investigation into Sprint's activities, and no state actor lodged a formal complaint against Sprint.

In its brief, the IUB emphasizes Sprint's decision to withdraw the complaint that commenced proceedings before the Board. At that point, the IUB argues, Sprint was no longer a willing participant, and the proceedings became, essentially, a civil enforcement action. See Brief for Respondents 31.[6] The IUB's adjudicative authority, however, was invoked to settle a civil dispute between two private parties, not to sanction Sprint for commission of a wrongful act. Although Sprint withdrew its complaint, administrative efficiency, not misconduct by Sprint, prompted the IUB to answer the underlying federal question. By determining the intercarrier compensation regime applicable to VoIP calls, the IUB sought to avoid renewed litigation of the parties' dispute. Because the underlying legal question remained unsettled, the Board observed, the controversy was "likely to recur." IUB Order 6. Nothing here suggests that the

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[6] To determine whether a state proceeding is an enforcement action under *Younger*, several Courts of Appeals, as noted, see *supra*, at 75, inquire whether the underlying state proceeding is "coercive" rather than "remedial." See, *e. g.*, *Devlin* v. *Kalm*, 594 F. 3d 893, 895 (CA6 2010). Though we referenced this dichotomy once in a footnote, see *Ohio Civil Rights Comm'n* v. *Dayton Christian Schools, Inc.*, 477 U. S. 619, 627, n. 2 (1986), we do not find the inquiry necessary or inevitably helpful, given the susceptibility of the designations to manipulation.

IUB proceeding was "more akin to a criminal prosecution than are most civil cases." *Huffman*, 420 U. S., at 604.

In holding that abstention was the proper course, the Eighth Circuit relied heavily on this Court's decision in *Middlesex*. *Younger* abstention was warranted, the Court of Appeals read *Middlesex* to say, whenever three conditions are met: There is (1) "an ongoing state judicial proceeding, which (2) implicates important state interests, and (3) . . . provide[s] an adequate opportunity to raise [federal] challenges." 690 F. 3d, at 867 (citing *Middlesex*, 457 U. S., at 432). Before this Court, the IUB has endorsed the Eighth Circuit's approach. Brief for Respondents 13.

The Court of Appeals and the IUB attribute to this Court's decision in *Middlesex* extraordinary breadth. We invoked *Younger* in *Middlesex* to bar a federal court from entertaining a lawyer's challenge to a New Jersey state ethics committee's pending investigation of the lawyer. Unlike the IUB proceeding here, the state ethics committee's hearing in *Middlesex* was indeed "akin to a criminal proceeding." As we noted, an investigation and formal complaint preceded the hearing, an agency of the State's Supreme Court initiated the hearing, and the purpose of the hearing was to determine whether the lawyer should be disciplined for his failure to meet the State's standards of professional conduct. 457 U. S., at 433–435. See also *id.*, at 438 (Brennan, J., concurring in judgment) (noting the "quasi-criminal nature of bar disciplinary proceedings"). The three *Middlesex* conditions recited above were not dispositive; they were, instead, *additional* factors appropriately considered by the federal court before invoking *Younger*.

Divorced from their quasi-criminal context, the three *Middlesex* conditions would extend *Younger* to virtually all parallel state and federal proceedings, at least where a party could identify a plausibly important state interest. See Tr. of Oral Arg. 35–36. That result is irreconcilable with our dominant instruction that, even in the presence of parallel

state proceedings, abstention from the exercise of federal jurisdiction is the "exception, not the rule." *Hawaii Housing Authority* v. *Midkiff*, 467 U. S. 229, 236 (1984) (quoting *Colorado River*, 424 U. S., at 813). In short, to guide other federal courts, we today clarify and affirm that *Younger* extends to the three "exceptional circumstances" identified in *NOPSI*, but no further.

* * *

For the reasons stated, the judgment of the United States Court of Appeals for the Eighth Circuit is

Reversed.

UNITE HERE LOCAL 355 *v.* MULHALL ET AL.

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

No. 12–99. Argued November 13, 2013—Decided December 10, 2013

Certiorari dismissed. Reported below: 667 F. 3d 1211.

Richard G. McCracken argued the cause for petitioner. With him on the briefs was *Paul L. More.*

Deputy Solicitor General Dreeben argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli, Acting Assistant Attorney General Raman, Nicole A. Saharsky, John M. Pellettieri,* and *Lafe E. Solomon.*

William L. Messenger argued the cause for respondents, and filed a brief for respondent Mulhall. *Robert L. Norton* and *Brian Koji* filed a brief for respondent Hollywood Greyhound Track, Inc.*

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

It is so ordered.

**Leon Dayan, Laurence Gold, Lynn Rhinehart, James B. Coppess, Judith A. Scott, Walter Kamiat, Mark David Schneider, Alice Margaret O'Brien,* and *Philip A. Hostak* filed a brief for the American Federation of Labor and Congress of Industrial Organizations et al. as *amici curiae* urging reversal.

Briefs of *amici curiae* urging affirmance were filed for the Center for Constitutional Jurisprudence by *John C. Eastman* and *Anthony T. Caso*; for the Council on Labor Law Equality by *Arthur B. Smith, Jr.,* and *Christopher C. Murray*; and for the National Federation of Independent Business Small Business Legal Center et al. by *Karen R. Harned* and *Ilya Shapiro.*

Matthew W. Finkin, Barry Winograd, and *James Oldham* filed a brief for the National Academy of Arbitrators as *amicus curiae.*

JUSTICE BREYER, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, dissenting.

Section 302(a) of the Labor Management Relations Act, 1947, 61 Stat. 157, as amended, an antibribery provision, makes it a crime for an employer "to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value" to a labor union that represents or seeks to represent its employees. 29 U. S. C. § 186(a)(2). Section 302(b) makes it a crime "for any person to request [or] demand . . . , or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a)." § 186(b)(1). The question in this case is whether an employer violates § 302(a) by making the following promises to a union that seeks to represent its employees: (1) that the employer will remain neutral in respect to the union's efforts to organize its employees, (2) that the union will be given access (for organizing purposes) to nonpublic areas of the employer's premises, and (3) that the union will receive a list of employees' names and contact information (also for organizing purposes). A further question (the other side of the same coin) is whether a union violates § 302(b) by requesting that the employer perform its contractual obligations to fulfill these promises.

The Eleventh Circuit held that these items are "thing[s] of value" and that an employer's promise to "pay" them in return for something of value from the union violates the Act if the employer intends to use the payment to "corrupt" the union; the Eleventh Circuit also held that a union's request that an employer make such a payment violates § 302(b) if the union intends to "extort" the benefit from the employer. 667 F. 3d 1211, 1215–1216 (2012). Other Circuits have held to the contrary, reasoning that similar promises by an employer to assist a union's organizing campaign (or merely to avoid opposing the campaign) fall outside the scope of § 302. See *Adcock* v. *Freightliner LLC*, 550 F. 3d 369 (CA4 2008); *Hotel Employees & Restaurant Employees Union, Local 57*

v. *Sage Hospitality Resources, LLC*, 390 F. 3d 206 (CA3 2004). We granted certiorari to resolve the conflict.

We have received briefs on the issue, and we have heard oral argument. But in considering the briefs and argument, we became aware of two logically antecedent questions that could prevent us from reaching the question of the correct interpretation of § 302. First, it is possible that the case is moot because the contract between the employer and union that contained the allegedly criminal promises appears to have expired by the end of 2011, before the Eleventh Circuit rendered its decision on the scope of § 302. Second, it is arguable that respondent Mulhall, the sole plaintiff in this case, lacks Article III standing.

In my view, rather than dismiss the writ of certiorari as improvidently granted, the Court should simply ask for additional briefs addressing these two questions. If it turns out that the federal courts lack jurisdiction either because the case is moot or because Mulhall lacks standing, then we cannot reach the merits. But if that is the case, then we should likely order the Eleventh Circuit's decision vacated, thereby removing its precedential effect and leaving the merits question open to be resolved in a later case that does fall within the jurisdiction of the federal courts.

I believe we should also ask for further briefing on a third question: the question whether § 302 authorizes a private right of action. I recognize that the Court said, long ago and in passing, that § 302(e) "permit[s] private litigants to obtain injunctions" for violations of § 302. *Sinclair Refining Co.* v. *Atkinson*, 370 U. S. 195, 205 (1962), overruled in part on other grounds, *Boys Markets, Inc.* v. *Retail Clerks*, 398 U. S. 235, 237–238 (1970). But, in light of the Court's more restrictive views on private rights of action in recent decades, see, *e. g.*, *Alexander* v. *Sandoval*, 532 U. S. 275, 286–287 (2001), the legal status of *Sinclair Refining*'s dictum is uncertain. And if § 302 in fact does not provide a right of action to private parties like Mulhall, then courts will not

need to reach difficult questions about the scope of § 302, as happened in this case, unless the Federal Government decides to prosecute such cases rather than limit its attention to cases that clearly fall within the statute's core antibribery purpose.

Unless resolved, the differences among the Courts of Appeals could negatively affect the collective-bargaining process. This is because the Eleventh Circuit's decision raises the specter that an employer or union official could be found guilty of a crime that carries a 5-year maximum sentence, see 29 U. S. C. § 186(d), if the employer or union official is found to have made certain commonplace organizing assistance agreements with the intent to "corrupt" or "extort." In my view, given the importance of the question presented to the collective-bargaining process, further briefing, rather than dismissal, is the better course of action.

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KANSAS *v.* CHEEVER

CERTIORARI TO THE SUPREME COURT OF KANSAS

No. 12–609. Argued October 16, 2013—Decided December 11, 2013

Shortly after respondent Cheever was charged with capital murder, the Kansas Supreme Court found the State's death penalty scheme unconstitutional. State prosecutors then dismissed their charges to allow federal authorities to prosecute him. When Cheever filed notice that he intended to introduce expert evidence that methamphetamine intoxication negated his ability to form specific intent, the Federal District Court ordered Cheever to submit to a psychiatric evaluation. The federal case was eventually dismissed without prejudice. Meanwhile, this Court held the State's death penalty scheme constitutional, see *Kansas* v. *Marsh*, 548 U. S. 163. The State then brought a second prosecution. At trial, Cheever raised a voluntary-intoxication defense, offering expert testimony regarding his methamphetamine use. In rebuttal, the State sought to present testimony from the expert who had examined Cheever by the Federal District Court order. Defense counsel objected, arguing that since Cheever had not agreed to the examination, introduction of the testimony would violate the Fifth Amendment proscription against compelling an accused to testify against himself. The trial court allowed the testimony, and the jury found Cheever guilty and voted to impose a death sentence. The Kansas Supreme Court vacated the conviction and sentence, relying on *Estelle* v. *Smith*, 451 U. S. 454, in which this Court held that a court-ordered psychiatric examination violated a defendant's Fifth Amendment rights when the defendant neither initiated the examination nor put his mental capacity in dispute. The court distinguished the holding of *Buchanan* v. *Kentucky*, 483 U. S. 402, that a State may introduce the results of such an examination for the limited purpose of rebutting a mental-status defense, on the basis that voluntary intoxication is not a mental disease or defect under Kansas law.

Held: The rule of *Buchanan*, reaffirmed here, applies in this case to permit the prosecution to offer the rebuttal evidence at issue. Pp. 93–98.

(a) In *Buchanan*, the prosecution presented evidence from a court-ordered evaluation to rebut the defendant's affirmative defense of extreme emotional disturbance. This Court concluded that this rebuttal testimony did not offend the Fifth Amendment, holding that when a defense expert who has examined the defendant testifies that the defendant lacked the requisite mental state to commit an offense, the

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prosecution may present psychiatric evidence in rebuttal. *Buchanan*'s reasoning was not limited to the circumstance that the evaluation was requested jointly by the defense and the government. Nor did the case turn on whether state law referred to extreme emotional disturbance as an affirmative defense. Pp. 93–94.

(b) The admission of rebuttal testimony under the rule of *Buchanan* harmonizes with the principle that when a defendant chooses to testify in a criminal case, the Fifth Amendment does not allow him to refuse to answer related questions on cross-examination. See *Fitzpatrick* v. *United States*, 178 U. S. 304, 315. Here, the prosecution elicited testimony from its expert only after Cheever offered expert testimony about his inability to form the requisite *mens rea*. Excluding this testimony would have undermined *Buchanan* and the core truth-seeking function of trial. Pp. 94–95.

(c) This Court is not persuaded by the Kansas Supreme Court's reasoning that Cheever did not waive his Fifth Amendment privilege because voluntary intoxication is not a mental disease or defect as a matter of state law. "Mental disease or defect" is not the salient phrase under this Court's precedents, which use the much broader phrase "mental status," *Buchanan*, 483 U. S., at 423. Mental-status defenses include those based on psychological expert evidence as to a defendant's *mens rea*, mental capacity to commit the crime, or ability to premeditate. To the extent that the Kansas Supreme Court declined to apply *Buchanan* because Cheever's intoxication was "temporary," this Court's precedents are again not so narrowly circumscribed, as evidenced by the fact that the courts where Buchanan was tried treated his extreme emotional disturbance as a "temporary" condition. Pp. 95–97.

(d) This Court declines to address in the first instance Cheever's contention that the prosecution's use of the court-ordered psychiatric examination exceeded the rebuttal-purpose limit established by *Buchanan*, see 483 U. S., at 424. Pp. 97–98.

295 Kan. 229, 284 P. 3d 1007, vacated and remanded.

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

Derek Schmidt, Attorney General of Kansas, argued the cause for petitioner. With him on the briefs were *Stephen R. McAllister*, Solicitor General, *Kristafer R. Ailslieger*, Deputy Solicitor General, and *Natalie Chalmers*, Assistant Solicitor General.

Nicole A. Saharsky argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief

were *Solicitor General Verrilli*, *Acting Assistant Attorney General Raman*, *Deputy Solicitor General Dreeben*, and *David M. Lieberman*.

Neal Kumar Katyal argued the cause for respondent. With him on the brief were *Dominic F. Perella*, *Mary Helen Wimberly*, and *Debra J. Wilson*.*

JUSTICE SOTOMAYOR delivered the opinion of the Court.

The Fifth Amendment to the United States Constitution provides that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself . . . ." The question here is whether the Fifth Amendment prohibits the government from introducing evidence from a court-ordered mental

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*Briefs of *amici curiae* urging reversal were filed for the State of California et al. by *Kamala D. Harris*, Attorney General of California, *John Michael Chamberlain*, Deputy Attorney General, *Dane R. Gillette*, Chief Assistant Attorney General, *Donald E. de Nicola*, Deputy State Solicitor General, and *Gerald A. Engler*, Senior Assistant Attorney General, and by the Attorneys General for their respective States as follows: *Luther Strange* of Alabama, *Tom Horne* of Arizona, *Dustin McDaniel* of Arkansas, *Joseph R. Biden III* of Delaware, *Pamela Jo Bondi* of Florida, *Samuel S. Olens* of Georgia, *David M. Louie* of Hawaii, *Jack Conway* of Kentucky, *Chris Koster* of Missouri, *Jon Bruning* of Nebraska, *Catherine Cortez Masto* of Nevada, *Joseph A. Foster* of New Hampshire, *Jeffrey S. Chiesa* of New Jersey, *Gary K. King* of New Mexico, *Wayne Stenehjem* of North Dakota, *Michael DeWine* of Ohio, *E. Scott Pruitt* of Oklahoma, *Ellen F. Rosenblum* of Oregon, *Kathleen G. Kane* of Pennsylvania, *Alan Wilson* of South Carolina, *Marty J. Jackley* of South Dakota, *Robert E. Cooper, Jr.*, of Tennessee, *John E. Swallow* of Utah, *Robert W. Ferguson* of Washington, *J. B. Van Hollen* of Wisconsin, and *Gregory A. Phillips* of Wyoming; for the Criminal Justice Legal Foundation by *Kent S. Scheidegger*; and for the National District Attorneys Association et al. by *Albert C. Locher*.

Briefs of *amici curiae* urging affirmance were filed for the American Civil Liberties Union et al. by *Catherine M. A. Carroll* and *Annie L. Owens*; for the Judge David L. Bazelon Center for Mental Health Law by *Mark D. Harris*, *Chantel L. Febus*, *Ira A. Burnim*, and *Jennifer Mathis*; and for the National Association of Criminal Defense Lawyers by *Jeffrey T. Green* and *Barbara E. Bergman*.

evaluation of a criminal defendant to rebut that defendant's presentation of expert testimony in support of a defense of voluntary intoxication. We hold that it does not.

I

On the morning of January 19, 2005, Scott Cheever shot and killed Matthew Samuels, a sheriff of Greenwood County, Kansas, and shot at other local law enforcement officers. In the hours before the shooting, Cheever and his friends had cooked and smoked methamphetamine at a home near Hilltop, Kansas. Samuels and multiple deputies drove there to arrest Cheever on an unrelated outstanding warrant.

When one of Cheever's friends warned him that officers were en route, Cheever rushed outside and tried to drive away, but his car had a flat tire. He returned inside and hid with a friend in an upstairs bedroom, holding a loaded .44-caliber revolver. Cheever then heard footsteps on the stairs leading up to the room, and he stepped out and shot Samuels, who was climbing the stairs. After briefly returning to the bedroom, Cheever walked back to the staircase and shot Samuels again. He also shot at a deputy and a detective, as well as members of a local SWAT (special weapons and tactics) team that had since arrived. Only Samuels was hit.

The State charged Cheever with capital murder. But shortly thereafter, in an unrelated case, the Kansas Supreme Court found the State's death penalty scheme unconstitutional. *State* v. *Marsh*, 278 Kan. 520, 102 P. 3d 445 (2004). Rather than continuing to prosecute Cheever without any chance of a death sentence, state prosecutors dismissed their charges and allowed federal authorities to prosecute Cheever under the Federal Death Penalty Act of 1994, 18 U. S. C. § 3591 *et seq.*

In the federal case, Cheever filed notice that he "intend[ed] to introduce expert evidence relating to his intoxication by methamphetamine at the time of the events on January 19, 2005, which negated his ability to form specific intent, *e. g.*,

malice aforethought, premeditation and deliberation." App. to Pet. for Cert. 69–70. Pursuant to Federal Rule of Criminal Procedure 12.2(b), the District Court ordered Cheever to submit to a psychiatric evaluation by Michael Welner, a forensic psychiatrist, to assess how methamphetamine use had affected him when he shot Samuels. Welner interviewed Cheever for roughly 5½ hours.

The federal case proceeded to trial. Seven days into jury selection, however, defense counsel became unable to continue; the court suspended the proceedings and later dismissed the case without prejudice. Meanwhile, this Court had reversed the Kansas Supreme Court and held that the Kansas death penalty statute was constitutional. *Kansas* v. *Marsh*, 548 U. S. 163, 167 (2006). A second federal prosecution never commenced.

Kansas then brought a second state prosecution. At the state trial, Cheever presented a voluntary-intoxication defense, arguing that his methamphetamine use had rendered him incapable of premeditation. In support of this argument, Cheever offered testimony from Roswell Lee Evans, a specialist in psychiatric pharmacy and dean of the Auburn University School of Pharmacy. Evans opined that Cheever's long-term methamphetamine use had damaged his brain.[1] Evans also testified that on the morning of the shooting, Cheever was acutely intoxicated. According to Evans, Cheever's actions were "very much influenced by" his use of methamphetamine.

After the defense rested, the State sought to present rebuttal testimony from Welner, the expert who had examined Cheever by order of the federal court. Defense counsel objected, arguing that because Welner's opinions were based in part on an examination to which Cheever had not voluntarily agreed, his testimony would violate the Fifth Amendment

[1] Evans described this damage as "neurotoxicity," which is "the quality of exerting a destructive or poisonous effect upon the nerve tissue." The Sloane-Dorland Annotated Medical-Legal Dictionary 498 (1987).

proscription against compelling an accused to testify against himself. The State countered that the testimony was necessary to rebut Cheever's voluntary-intoxication defense.

The trial court agreed with the State. The court was persuaded, in part, by the fact that the defense expert had himself relied on Welner's examination report: "I think that fact alone probably allows the State to call [Welner] to give his own point of view." App. 92. The court allowed Welner's testimony for the purpose of showing that Cheever shot Samuels "because of his antisocial personality, not because his brain was impaired by methamphetamine." *Id.*, at 94.

The jury found Cheever guilty of murder and attempted murder. At the penalty phase, it unanimously voted to impose a sentence of death, and the trial court accepted that verdict.

On appeal to the Kansas Supreme Court, Cheever argued that the State had violated his Fifth Amendment rights when it introduced, through Welner's testimony, statements that he had made during the federal court-ordered mental examination. The court agreed, relying primarily on *Estelle* v. *Smith*, 451 U. S. 454 (1981), in which we held that a court-ordered psychiatric examination violated the defendant's Fifth Amendment rights when the defendant neither initiated the examination nor put his mental capacity in dispute at trial. 295 Kan. 229, 243–244, 284 P. 3d 1007, 1019–1020 (2012) (*per curiam*). The court acknowledged, *id.*, at 244–245, 284 P. 3d, at 1020, our holding that a State may introduce the results of a court-ordered mental examination for the limited purpose of rebutting a mental-status defense. *Buchanan* v. *Kentucky*, 483 U. S. 402, 423–424 (1987). But it distinguished *Buchanan* on the basis that under Kansas law, voluntary intoxication is not a "mental disease or defect." 295 Kan., at 250, 284 P. 3d, at 1023. Consequently, it vacated Cheever's conviction and sentence, holding that Cheever had not waived his Fifth Amendment privilege and that his federal court-ordered examination should not have

been used against him at the state-court trial. *Ibid.* We granted certiorari, 568 U. S. 1192 (2013), and now reverse.

II

The Fifth Amendment guarantees that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself . . . ." We held in *Estelle* that under the Fifth Amendment, when a criminal defendant "neither initiates a psychiatric evaluation nor attempts to introduce any psychiatric evidence," his compelled statements to a psychiatrist cannot be used against him. 451 U. S., at 468. In that case, a judge ordered a psychiatric examination to determine the defendant's competency to stand trial. *Id.*, at 456–457. The prosecution then used statements from that examination during the sentencing phase of the trial as evidence of the defendant's future dangerousness. *Id.*, at 458–460. Emphasizing that the defendant had neither "introduced" any "psychiatric evidence," nor even "indicated that he might do so," *id.*, at 466, we concluded that the Fifth Amendment did not permit the State to use the defendant's statements in this manner.

In *Buchanan*, we addressed the admissibility of evidence from a court-ordered evaluation where—unlike in *Estelle*—a defendant had introduced psychiatric evidence related to his mental-status defense. We held that the Fifth Amendment allowed the prosecution to present evidence from the evaluation to rebut the defendant's affirmative defense of extreme emotional disturbance. And while, as Cheever notes, the mental evaluation in *Buchanan* was requested jointly by the defense and the government, our holding was not limited to that circumstance. Moreover, contrary to Cheever's suggestion, the case did not turn on whether state law referred to extreme emotional disturbance as an "affirmative defense." *Buchanan*, 483 U. S., at 408, 422 (holding that the prosecution's use of rebuttal expert testimony is permissible where a defendant "presents psychiatric evidence"). The

rule of *Buchanan*, which we reaffirm today, is that where a defense expert who has examined the defendant testifies that the defendant lacked the requisite mental state to commit an offense, the prosecution may present psychiatric evidence in rebuttal. *Ibid.* Any other rule would undermine the adversarial process, allowing a defendant to provide the jury, through an expert operating as proxy, with a one-sided and potentially inaccurate view of his mental state at the time of the alleged crime.

The admission of this rebuttal testimony harmonizes with the principle that when a defendant chooses to testify in a criminal case, the Fifth Amendment does not allow him to refuse to answer related questions on cross-examination. A defendant "has no right to set forth to the jury all the facts which tend in his favor without laying himself open to a cross-examination upon those facts." *Fitzpatrick* v. *United States*, 178 U. S. 304, 315 (1900). We explained in *Brown* v. *United States*, 356 U. S. 148 (1958), which involved a witness' refusal to answer questions in a civil case, that where a party provides testimony and then refuses to answer potentially incriminating questions, "[t]he interests of the other party and regard for the function of courts of justice to ascertain the truth become relevant, and prevail in the balance of considerations determining the scope and limits of the privilege against self-incrimination." *Id.*, at 156. When a defendant presents evidence through a psychological expert who has examined him, the government likewise is permitted to use the only effective means of challenging that evidence: testimony from an expert who has also examined him. See *United States* v. *Byers*, 740 F. 2d 1104, 1113 (CADC 1984) (en banc) (holding that the Government could present rebuttal expert testimony in part because it is perhaps "the most trustworthy means of attempting to meet" the burden of proof (internal quotation marks omitted)).[2]

[2] For that reason, we reject Cheever's suggestion that the State could effectively have rebutted the testimony of his expert by introducing testimony from experts who had not personally examined him.

The prosecution here elicited testimony from its expert only after Cheever offered expert testimony about his inability to form the requisite *mens rea*. The testimony of the government expert rebutted that of Cheever's expert. See *id.*, at 1114 ("Ordinarily the only effective rebuttal of psychiatric opinion testimony is contradictory opinion testimony; and for that purpose . . . the basic tool of psychiatric study remains the personal interview, which requires rapport between the interviewer and the subject" (internal quotation marks and brackets omitted)); *State* v. *Druke*, 143 Ariz. 314, 318, 693 P. 2d 969, 973 (App. 1984) ("[A]n inference would arise that the evidence presented by the [defendant] as to his mental condition is true because uncontradicted"). The trial court therefore did not violate the Fifth Amendment when it allowed Welner to testify that Cheever "made a choice to shoot," App. 131, because the State permissibly followed where the defense led. Excluding this testimony would have undermined *Buchanan* and the core truth-seeking function of the trial.

III

Neither the Kansas Supreme Court's reasoning, nor Cheever's arguments, persuade us not to apply the settled rule of *Buchanan*.

A

Although the Kansas Supreme Court acknowledged that the State may present evidence obtained from a compelled psychiatric examination when "the defendant presents evidence at trial that he or she lacked the requisite criminal intent due to mental disease or defect," 295 Kan., at 249, 284 P. 3d, at 1023, it reasoned that voluntary intoxication is not a "mental disease or defect" as a matter of state law, *id.*, at 250, 284 P. 3d, at 1023–1024 (citing *State* v. *Kleypas*, 272 Kan. 894, 40 P. 3d 139 (2001)). The court therefore concluded that "Cheever did not waive his Fifth Amendment privilege and thus permit his court-ordered examination by Dr. Welner to

be used against him at trial." 295 Kan., at 251, 284 P. 3d, at 1024.

This reasoning misconstrues our precedents. Although Kansas law defines "mental disease or defect" narrowly, to exclude voluntary intoxication, that phrase is actually not the salient one under our precedents. In *Buchanan*, we permitted rebuttal testimony where the defendant presented evidence of "the 'mental status' defense of extreme emotional disturbance." 483 U. S., at 423. And "mental status" is a broader term than "mental disease or defect," at least to the extent that Kansas law excludes voluntary intoxication from that definition. Mental-status defenses include those based on psychological expert evidence as to a defendant's *mens rea*, mental capacity to commit the crime, or ability to premeditate. Defendants need not assert a "mental disease or defect" in order to assert a defense based on "mental status."

To the extent that the Kansas Supreme Court declined to apply *Buchanan* because Cheever's intoxication was "temporary," our precedents are again not so narrowly circumscribed. Like voluntary intoxication, extreme emotional disturbance is a "temporary" condition, at least according to the Kentucky state courts where Buchanan was tried. See *McClellan* v. *Commonwealth*, 715 S. W. 2d 464, 468–469 (Ky. 1986) (defining extreme emotional disturbance as "a temporary state of mind so enraged, inflamed, or disturbed as to overcome one's judgment, and to cause one to act uncontrollably from [an] impelling force of [an] extreme emotional disturbance rather than from evil or malicious purposes"). We nonetheless held in *Buchanan* that the defense of extreme emotional disturbance, when supported by expert testimony, may be rebutted with expert testimony. The same is true here. Cheever's psychiatric evidence concerned his mental status because he used it to argue that he lacked the requisite mental capacity to premeditate. The Fifth Amendment

therefore did not bar the State from using Welner's examination to rebut Cheever's voluntary-intoxication defense.

B

Cheever further contends that the Fifth Amendment imposes limits on the State's ability to introduce rebuttal evidence regarding a defendant's mental status. According to Cheever, Welner's testimony exceeded these limits by describing the shooting from Cheever's perspective;[3] by insinuating that he had a personality disorder; and by discussing his alleged infatuation with criminals.

We have held that testimony based on a court-ordered psychiatric evaluation is admissible only for a "limited rebuttal purpose." *Buchanan*, 483 U. S., at 424. In *Buchanan*, for example, although the prosecution had used a psychiatric report to rebut the defendant's evidence of extreme emotional disturbance, we noted that the trial court had redacted the report so as to avoid exposing the jury to the "very different issue" of the defendant's competency to stand trial. *Id.*, at 423, n. 20. Two years later, we explained in dictum that "[n]othing" in our precedents "suggests that a defendant opens the door to the admission of psychiatric evidence on future dangerousness by raising an insanity defense at the guilt stage of the trial." *Powell* v. *Texas*, 492 U. S. 680, 685–686, n. 3 (1989) (*per curiam*). Here, however, the Kansas Supreme Court did not address whether Welner's testimony exceeded the scope of rebuttal testimony permitted by the

[3] In an extended soliloquy, Dr. Welner narrated the crime from Cheever's perspective, in part as follows: "I don't jump out of the window the way my confederate later does. And when I do shoot, I don't shoot before Matthew Samuels walks through the curtain in such a way that I might scare him, the way my later shots frightened the deputies that came to pull him away, but I shoot him at a point in which he is very much within my range, has passed through that curtain, and I know that he is coming upstairs, and that is when I shoot." App. 130–131.

Fifth Amendment or by the State's evidentiary rules. We accordingly decline to address this issue in the first instance.[4]

* * *

We hold that where a defense expert who has examined the defendant testifies that the defendant lacked the requisite mental state to commit a crime, the prosecution may offer evidence from a court-ordered psychological examination for the limited purpose of rebutting the defendant's evidence.

The judgment of the Kansas Supreme Court is therefore vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

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[4] Kansas contends that reaching a federal constitutional question may not be necessary because Cheever argued in opposing certiorari that the scope of Welner's testimony violated state evidentiary rules. Reply Brief 4–5. We agree with the State that the impact of Kansas evidentiary rules is a matter best left to the state courts to decide on remand. We do observe, however, that while our holding today suggests a constitutional ceiling on the scope of expert testimony that the prosecution may introduce in rebuttal, States (and Congress) remain free to impose additional limitations on the scope of such rebuttal evidence in state and federal trials.

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HEIMESHOFF *v.* HARTFORD LIFE & ACCIDENT INSURANCE CO. ET AL.

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

No. 12–729. Argued October 15, 2013—Decided December 16, 2013

Respondent Hartford Life & Accident Insurance Co. (Hartford) is the administrator of Wal-Mart Stores, Inc.'s (Wal-Mart) Group Long Term Disability Plan (Plan), an employee benefit plan covered by the Employee Retirement Income Security Act of 1974 (ERISA). The Plan's insurance policy requires any suit to recover benefits pursuant to the judicial review provision in ERISA § 502(a)(1)(B), 29 U. S. C. § 1132(a)(1)(B), to be filed within three years after "proof of loss" is due. Petitioner Heimeshoff filed a claim for long-term disability benefits with Hartford. After petitioner exhausted the mandatory administrative review process, Hartford issued its final denial. Almost three years after that final denial but more than three years after proof of loss was due, Heimeshoff filed a claim for judicial review pursuant to ERISA § 502(a)(1)(B). Hartford and Wal-Mart moved to dismiss on the ground that the claim was untimely. The District Court granted the motion, recognizing that while ERISA does not provide a statute of limitations, the contractual 3-year limitations period was enforceable under applicable state law and Circuit precedent. The Second Circuit affirmed.

Held: The Plan's limitations provision is enforceable. Pp. 105–116.

(a) The courts of appeals require participants in an employee benefit plan covered by ERISA to exhaust the plan's administrative remedies before filing suit to recover benefits. A plan participant's cause of action under ERISA § 502(a)(1)(B) therefore does not accrue until the plan issues a final denial. But it does not follow that a plan and its participants cannot agree to commence the limitations period before that time. Pp. 105–109.

(1) The rule set forth in *Order of United Commercial Travelers of America* v. *Wolfe*, 331 U. S. 586, 608, provides that a contractual limitations provision is enforceable so long as the limitations period is of reasonable length and there is no controlling statute to the contrary. That is the appropriate framework for determining the enforceability of the Plan's limitations provision. The *Wolfe* approach necessarily allows parties to agree both to the length of a limitations period and to its commencement. Pp. 106–108.

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(2) The principle that contractual limitations provisions should ordinarily be enforced as written is especially appropriate in the context of an ERISA plan. Heimeshoff's cause of action is bound up with the written terms of the Plan, and ERISA authorizes a participant to bring suit "to enforce his rights under the terms of the plan." § 1132(a)(1)(B). This Court has thus recognized the particular importance of enforcing plan terms as written in § 502(a)(1)(B) claims, see, *e. g.*, *CIGNA Corp.* v. *Amara*, 563 U. S. 421, 436, and will not presume from statutory silence that Congress intended a different approach here. Pp. 108–109.

(b) Unless the limitations period is unreasonably short or there is a "controlling statute to the contrary," *Wolfe*, *supra*, at 608, the Plan's limitations provision must be given effect. Pp. 109–116.

(1) The Plan's period is not unreasonably short. Applicable regulations mean for mainstream claims to be resolved by plans in about one year. Here, the Plan's administrative review process ("internal review") required more time than usual but still left Heimeshoff with approximately one year to file suit. Her reliance on *Occidental Life Ins. Co. of Cal.* v. *EEOC*, 432 U. S. 355, in which this Court declined to enforce a 12-month statute of limitations applied to Title VII employment discrimination actions where the Equal Employment Opportunity Commission faced an 18- to 24-month backlog, is unavailing in the absence of any evidence that similar obstacles exist to bringing a timely ERISA § 502(a)(1)(B) claim. Pp. 109–110.

(2) This Court rejects the contentions of Heimeshoff and the United States that the limitations provision is unenforceable because it will undermine ERISA's two-tiered remedial scheme. Pp. 110–115.

(i) Enforcement of the Plan's limitations provision is unlikely to cause participants to shortchange the internal review process. The record for judicial review generally has been limited to the administrative record, so participants who fail to develop evidence during internal review risk forfeiting the use of that evidence in district court. In addition, many plans vest discretion over benefits determinations in the plan administrator, and courts ordinarily review such determinations only for abuse of discretion. Pp. 111–112.

(ii) It is also unlikely that enforcing limitations periods that begin to run before the internal review process is exhausted will endanger judicial review. To the extent that administrators attempt to prevent judicial review by delaying the resolution of claims in bad faith, the penalty for failure to meet the regulatory deadlines is immediate access to judicial review for the participant. Evidence from 40 years of ERISA administration of this common contractual provision suggests that the good-faith administration of internal review will not diminish the availability of judicial review either. Heimeshoff identifies only a

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handful of cases in which ERISA § 502(a)(1)(B) plaintiffs have been time barred as a result of the 3-year limitations provision, and these cases suggest that the bar falls on participants who have not diligently pursued their rights. Moreover, courts are well equipped to apply traditional doctrines, such as waiver or estoppel, see, *e. g.*, *Thompson* v. *Phenix Ins. Co.*, 136 U. S. 287, 298–299, and equitable tolling, see, *e. g.*, *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89, 95, that nevertheless may allow participants to proceed. Finally, plans offering appeals or dispute resolution beyond what is contemplated in the internal review regulations must agree to toll the limitations provision during that time. 29 CFR § 2560.503–1(c)(3)(ii). Pp. 112–115.

(3) Heimeshoff's additional arguments are unpersuasive. The limitations period need not be tolled as a matter of course during internal review because that would be inconsistent with the text of the limitations provision, which is enforceable. And federal courts need not inquire whether state law would toll the limitations period during internal review because the limitations period is set by contract, not borrowed from state law. Pp. 115–116.

496 Fed. Appx. 129, affirmed.

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

Matthew W. H. Wessler argued the cause for petitioner. With him on the briefs were *Steven P. Krafchick*, *Carla Tachau Lawrence*, *Leah M. Nicholls*, *Leslie A. Brueckner*, *Arthur H. Bryant*, *Peter K. Stris*, and *Brendan S. Maher*.

Ginger D. Anders argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *M. Patricia Smith*, *Nathaniel I. Spiller*, and *Jamila Minnicks*.

Catherine M. A. Carroll argued the cause for respondents. With her on the brief was *Seth P. Waxman*.*

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*Briefs of *amici curiae* urging reversal were filed for AARP et al. by *Mary Ellen Signorille*, *Melvin Radowitz*, *Ronald Dean*, and *Rebecca Hamburg Cappy*; and for United Policyholders by *Cassie Springer*, *Michelle L. Roberts*, *Tybe A. Brett*, and *Glenn Kantor*.

Briefs of *amici curiae* urging affirmance were filed for the American Council of Life Insurers et al. by *William M. Jay*, *Carl B. Wilkerson*, *Joseph Miller*, *Thomas Wilder*, and *Kate Comerford Todd*; and for

JUSTICE THOMAS delivered the opinion of the Court.

A participant in an employee benefit plan covered by the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 829, as amended, 29 U. S. C. § 1001 *et seq.*, may bring a civil action under § 502(a)(1)(B) to recover benefits due under the terms of the plan. 29 U. S. C. § 1132(a)(1)(B). Courts have generally required participants to exhaust the plan's administrative remedies before filing suit to recover benefits. ERISA does not, however, specify a statute of limitations for filing suit under § 502(a)(1)(B). Filling that gap, the plan at issue here requires participants to bring suit within three years after "proof of loss" is due. Because proof of loss is due before a plan's administrative process can be completed, the administrative exhaustion requirement will, in practice, shorten the contractual limitations period. The question presented is whether the contractual limitations provision is enforceable. We hold that it is.

I

In 2005, petitioner Julie Heimeshoff began to report chronic pain and fatigue that interfered with her duties as a senior public relations manager for Wal-Mart Stores, Inc. Her physician later diagnosed her with lupus and fibromyalgia. Heimeshoff stopped working on June 8.

On August 22, 2005, Heimeshoff filed a claim for long-term disability benefits with Hartford Life & Accident Insurance Co., the administrator of Wal-Mart's Group Long Term Disability Plan (Plan). Her claim form, supported by a statement from her rheumatologist, listed her symptoms as "'extreme fatigue, significant pain, and difficulty in concentration.'"[1] App. to Pet. for Cert. 7. In November 2005,

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DRI–The Voice of the Defense Bar by *Mary Massaron Ross*, *Jerrold J. Ganzfried*, and *Ariadna Alvarez*.

[1] The insurance policy provides: "'Written proof of loss must be sent to The Hartford within 90 days after the start of the period for which The Hartford owes payment. After that, The Hartford may require further written proof that you are still Disabled.'" App. to Pet. for Cert. 10.

Hartford notified Heimeshoff that it could not determine whether she was disabled because her rheumatologist had never responded to Hartford's request for additional information. Hartford denied the claim the following month for failure to provide satisfactory proof of loss. Hartford instructed Heimeshoff that it would consider an appeal filed within 180 days, but later informed her that it would reopen her claim, without the need for an appeal, if her rheumatologist provided the requested information.

In July 2006, another physician evaluated Heimeshoff and concluded that she was disabled. Heimeshoff submitted that evaluation and additional medical evidence in October 2006. Hartford then retained a physician to review Heimeshoff's records and speak with her rheumatologist. That physician issued a report in November 2006 concluding that Heimeshoff was able to perform the activities required by her sedentary occupation. Hartford denied Heimeshoff's claim later that November.

In May 2007, Heimeshoff requested an extension of the Plan's appeal deadline until September 30, 2007, in order to provide additional evidence. Hartford granted the extension. On September 26, 2007, Heimeshoff submitted her appeal along with additional cardiopulmonary and neuropsychological evaluations. After two additional physicians retained by Hartford reviewed the claim, Hartford issued its final denial on November 26, 2007.

On November 18, 2010, almost three years later (but more than three years after proof of loss was due), Heimeshoff filed suit in District Court seeking review of her denied claim pursuant to ERISA §502(a)(1)(B). Hartford and Wal-Mart moved to dismiss on the ground that Heimeshoff's complaint was barred by the Plan's limitations provision, which stated: "Legal action cannot be taken against The Hartford . . . [more than] 3 years after the time written proof of loss is required to be furnished according to the terms of the policy." *Id.*, at 10.

The District Court granted the motion to dismiss. Recognizing that ERISA does not provide a statute of limitations for actions under § 502(a)(1)(B), the court explained that the limitations period provided by the most nearly analogous state statute applies. See *North Star Steel Co.* v. *Thomas*, 515 U. S. 29, 33–34 (1995). Under Connecticut law, the Plan was permitted to specify a limitations period expiring "[not] less than one year from the time when the loss insured against occurs."[2] Conn. Gen. Stat. § 38a–290 (2012); see App. to Pet. for Cert. 13. The court held that, under Circuit precedent, a 3-year limitations period set to begin when proof of loss is due is enforceable, and Heimeshoff's claim was therefore untimely.[3] *Id.*, at 13, 15 (citing *Burke* v. *PriceWaterHouseCoopers LLP Long Term Disability Plan*, 572 F. 3d 76, 79–81 (CA2 2009) (*per curiam*)).

On appeal, the Second Circuit affirmed. 496 Fed. Appx. 129 (2012). Applying the precedent relied on by the District Court, the Court of Appeals concluded that it did not offend ERISA for the limitations period to commence before the plaintiff could file suit under § 502(a)(1)(B). Because the policy language unambiguously provided that the 3-year limitations period ran from the time that proof of loss was due under the Plan, and because Heimeshoff filed her claim more than three years after that date, her action was time barred.

We granted certiorari to resolve a split among the Courts of Appeals on the enforceability of this common contractual limitations provision. 569 U. S. 917 (2013). Compare, *e. g.*, *Burke*, *supra*, at 79–81 (plan provision requiring suit within

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[2] The parties do not dispute that Connecticut provides the relevant state law governing the limitations period in this case.

[3] Heimeshoff also argued before the District Court that even if the Plan's limitations provision were enforceable, her suit was still timely because Hartford had granted her request for an extension until September 30, 2007. Even crediting the contention that proof of loss was not due until that date, the court held that the Plan's limitations provision barred her from bringing legal action any later than September 30, 2010. Heimeshoff did not file suit until November 18, 2010.

three years after proof-of-loss deadline is enforceable); and *Rice* v. *Jefferson Pilot Financial Ins. Co.*, 578 F. 3d 450, 455–456 (CA6 2009) (same), with *White* v. *Sun Life Assurance Co. of Canada*, 488 F. 3d 240, 245–248 (CA4 2007) (not enforceable); and *Price* v. *Provident Life & Acc. Ins. Co.*, 2 F. 3d 986, 988 (CA9 1993) (same). We now affirm.

II

Statutes of limitations establish the period of time within which a claimant must bring an action. As a general matter, a statute of limitations begins to run when the cause of action "'accrues'"—that is, when "the plaintiff can file suit and obtain relief." *Bay Area Laundry and Dry Cleaning Pension Trust Fund* v. *Ferbar Corp. of Cal.*, 522 U. S. 192, 201 (1997).

ERISA and its regulations require plans to provide certain presuit procedures for reviewing claims after participants submit proof of loss (internal review). See 29 U. S. C. § 1133; 29 CFR § 2560.503–1 (2012). The courts of appeals have uniformly required that participants exhaust internal review before bringing a claim for judicial review under § 502(a)(1)(B). See *LaRue* v. *DeWolff, Boberg & Associates, Inc.*, 552 U. S. 248, 258–259 (2008) (ROBERTS, C. J., concurring in part and concurring in judgment). A participant's cause of action under ERISA accordingly does not accrue until the plan issues a final denial.

ERISA § 502(a)(1)(B) does not specify a statute of limitations. Instead, the parties in this case have agreed by contract to a 3-year limitations period. The contract specifies that this period begins to run at the time proof of loss is due. Because proof of loss is due before a participant can exhaust internal review, Heimeshoff contends that this limitations provision runs afoul of the general rule that statutes of limitations commence upon accrual of the cause of action.

For the reasons that follow, we reject that argument. Absent a controlling statute to the contrary, a participant and

a plan may agree by contract to a particular limitations period, even one that starts to run before the cause of action accrues, as long as the period is reasonable.

A

Recognizing that Congress generally sets statutory limitations periods to begin when their associated causes of action accrue, this Court has often construed statutes of limitations to commence when the plaintiff is permitted to file suit. See, *e. g.*, *Graham County Soil & Water Conservation Dist.* v. *United States ex rel. Wilson*, 545 U. S. 409, 418 (2005) (resolving an ambiguity in light of "the 'standard rule that the limitations period commences when the plaintiff has a complete and present cause of action'" (quoting *Bay Area Laundry, supra*, at 201)); *Rawlings* v. *Ray*, 312 U. S. 96, 98 (1941). At the same time, we have recognized that statutes of limitations do not inexorably commence upon accrual. See *Reiter* v. *Cooper*, 507 U. S. 258, 267 (1993) (noting the possibility that a cause of action may "accru[e] at one time for the purpose of calculating when the statute of limitations begins to run, but at another time for the purpose of bringing suit"); see also *Dodd* v. *United States*, 545 U. S. 353, 358 (2005) (the statute of limitations in the federal habeas statute runs from "'the date on which the right asserted was initially recognized by the Supreme Court'" even if the right has not yet been "'made retroactively applicable to cases on collateral review'"); *McMahon* v. *United States*, 342 U. S. 25, 26–27 (1951) (the limitations period in the Suits in Admiralty Act runs from the date of injury rather than when plaintiffs may sue).

None of those decisions, however, addresses the critical aspect of this case: The parties have agreed by contract to commence the limitations period at a particular time. For that reason, we find more appropriate guidance in precedent confronting whether to enforce the terms of a contractual limitations provision. Those cases provide a well-

established framework suitable for resolving the question in this case:

> "[I]n the absence of a controlling statute to the contrary, a provision in a contract may validly limit, between the parties, the time for bringing an action on such contract to a period less than that prescribed in the general statute of limitations, provided that the shorter period itself shall be a reasonable period." *Order of United Commercial Travelers of America* v. *Wolfe*, 331 U. S. 586, 608 (1947).

We have recognized that some statutes of limitations do not permit parties to choose a shorter period by contract. See, *e. g.*, *Louisiana & Western R. Co.* v. *Gardiner*, 273 U. S. 280, 284 (1927) (contractual provision requiring suit against common carrier within two years and one day after delivery was invalid under a federal statute "declar[ing] unlawful any limitation shorter than two years from the time notice is given of the disallowance of the claim"). The rule set forth in *Wolfe* recognizes, however, that other statutes of limitations provide only a default rule that permits parties to choose a shorter limitations period. See *Riddlesbarger* v. *Hartford Ins. Co.*, 7 Wall. 386, 390 (1869) (finding "nothing in th[e] language or object [of statutes of limitations] which inhibits parties from stipulating for a shorter period within which to assert their respective claims"); see also *Missouri, K. & T. R. Co.* v. *Harriman*, 227 U. S. 657, 672–673 (1913) (citing examples). If parties are permitted to contract around a default statute of limitations, it follows that the same rule applies where the statute creating the cause of action is silent regarding a limitations period.

The *Wolfe* rule necessarily allows parties to agree not only to the length of a limitations period but also to its commencement. The duration of a limitations period can be measured only by reference to its start date. Each is therefore an integral part of the limitations provision, and there is no

basis for categorically preventing parties from agreeing on one aspect but not the other. See *Electrical Workers* v. *Robbins & Myers, Inc.*, 429 U. S. 229, 234 (1976) (noting that "the parties could conceivably have agreed to a contract" specifying the "'occurrence'" that commenced the statutory limitations period).

B

The principle that contractual limitations provisions ordinarily should be enforced as written is especially appropriate when enforcing an ERISA plan. "The plan, in short, is at the center of ERISA." *US Airways, Inc.* v. *McCutchen*, 569 U. S. 88, 101 (2013). "[E]mployers have large leeway to design disability and other welfare plans as they see fit." *Black & Decker Disability Plan* v. *Nord*, 538 U. S. 822, 833 (2003). And once a plan is established, the administrator's duty is to see that the plan is "maintained pursuant to [that] written instrument." 29 U. S. C. § 1102(a)(1). This focus on the written terms of the plan is the linchpin of "a system that is [not] so complex that administrative costs, or litigation expenses, unduly discourage employers from offering [ERISA] plans in the first place." *Varity Corp.* v. *Howe*, 516 U. S. 489, 497 (1996).

Heimeshoff's cause of action for benefits is likewise bound up with the written instrument. ERISA § 502(a)(1)(B) authorizes a plan participant to bring suit "to recover benefits due to him *under the terms of his plan*, to enforce his rights *under the terms of the plan*, or to clarify his rights to future benefits *under the terms of the plan.*" 29 U. S. C. § 1132(a)(1)(B) (emphasis added). That "statutory language speaks of '*enforc[ing]*' the 'terms of the plan,' not of *changing* them." *CIGNA Corp.* v. *Amara*, 563 U. S. 421, 436 (2011). For that reason, we have recognized the particular importance of enforcing plan terms as written in § 502(a)(1)(B) claims. See *id.*, at 435–436; *Conkright* v. *Frommert*, 559 U. S. 506, 512–513 (2010); *Kennedy* v. *Plan Administrator for DuPont Sav. and Investment Plan*, 555

U. S. 285, 299–301 (2009). Because the rights and duties at issue in this case are no less "built around reliance on the face of written plan documents," *Curtiss-Wright Corp.* v. *Schoonejongen*, 514 U. S. 73, 83 (1995), we will not presume from statutory silence that Congress intended a different approach here.

III

We must give effect to the Plan's limitations provision unless we determine either that the period is unreasonably short, or that a "controlling statute" prevents the limitations provision from taking effect. *Wolfe*, *supra*, at 608. Neither condition is met here.

A

Neither Heimeshoff nor the United States claims that the Plan's 3-year limitations provision is unreasonably short on its face. And with good reason: The United States acknowledges that the regulations governing internal review mean for "mainstream" claims to be resolved in about one year, Tr. of Oral Arg. 22, leaving the participant with two years to file suit.[4] Even in this case, where the administrative review process required more time than usual, Heimeshoff was left with approximately one year in which to file suit. Heimeshoff does not dispute that a hypothetical 1-year limitations period commencing at the conclusion of internal review would be reasonable. *Id.*, at 4. We cannot fault a limitations provision that would leave the same amount of time in a case with an unusually long internal review process while providing for a significantly longer period in most cases.

Heimeshoff's reliance on *Occidental Life Ins. Co. of Cal.* v. *EEOC*, 432 U. S. 355 (1977), is therefore misplaced. There,

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[4] Heimeshoff, drawing on a study by the American Council of Life Insurers of recent § 502(a)(1)(B) cases where timeliness was at issue, states that exhaustion can take 15 to 16 months in a typical case. Reply Brief 17–18, n. 3 (citing Brief for American Council of Life Insurers et al. as *Amici Curiae* 29). In our view, that still leaves ample time for filing suit.

we declined to enforce a State's 1-year statute of limitations as applied to Title VII employment discrimination actions where the limitations period commenced before accrual. We concluded that "[i]t would hardly be reasonable" to suppose that Congress intended to enforce state statutes of limitations as short as 12 months where the Equal Employment Opportunity Commission faced a backlog of 18 to 24 months, leaving claimants with little chance of bringing a claim *not* barred by the State's statute of limitations. *Id.*, at 369–371. In the absence of any evidence that there are similar obstacles to bringing a timely § 502(a)(1)(B) claim, we conclude that the Plan's limitations provision is reasonable.

B

Heimeshoff and the United States contend that even if the Plan's limitations provision is reasonable, ERISA is a "controlling statute to the contrary." *Wolfe*, 331 U. S., at 608. But they do not contend that ERISA's statute of limitations for claims of breach of fiduciary duty controls this action to recover benefits. See 29 U. S. C. § 1113. Nor do they claim that ERISA's text or regulations contradict the Plan's limitations provision. Rather, they assert that the limitations provision will "undermine" ERISA's two-tiered remedial scheme. Brief for Petitioner 39; Brief for United States as *Amicus Curiae* 19. We cannot agree.

1

The first tier of ERISA's remedial scheme is the internal review process required for all ERISA disability-benefit plans. 29 CFR § 2560.503–1. After the participant files a claim for disability benefits, the plan has 45 days to make an "adverse benefit determination." § 2560.503–1(f)(3). Two 30-day extensions are available for "matters beyond the control of the plan," giving the plan a total of up to 105 days to make that determination. *Ibid.* The plan's time for making a benefit determination may be tolled "due to a claimant's

failure to submit information necessary to decide a claim." § 2560.503–1(f)(4).

Following denial, the plan must provide the participant with "at least 180 days . . . within which to appeal the determination." §§ 2560.503–1(h)(3)(i), (h)(4). The plan has 45 days to resolve that appeal, with one 45-day extension available for "special circumstances (such as the need to hold a hearing)." §§ 2560.503–1(i)(1)(i), (i)(3)(i). The plan's time for resolving an appeal can be tolled again if the participant fails to submit necessary information. § 2560.503–1(i)(4). In the ordinary course, the regulations contemplate an internal review process lasting about one year. Tr. of Oral Arg. 22. If the plan fails to meet its own deadlines under these procedures, the participant "shall be deemed to have exhausted the administrative remedies." § 2560.503–1(l). Upon exhaustion of the internal review process, the participant is entitled to proceed immediately to judicial review, the second tier of ERISA's remedial scheme.

2

Heimeshoff and the United States first claim that the Plan's limitations provision will undermine the foregoing internal review process. They contend that participants will shortchange their own rights during that process in order to have more time in which to seek judicial review. Their premise—that participants will sacrifice the benefits of internal review to preserve additional time for filing suit—is highly dubious in light of the consequences of that course of action.

First, to the extent participants fail to develop evidence during internal review, they risk forfeiting the use of that evidence in district court. The Courts of Appeals have generally limited the record for judicial review to the administrative record compiled during internal review. See, *e. g.*, *Foster* v. *PPG Industries, Inc.*, 693 F. 3d 1226, 1231 (CA10 2012); *Fleisher* v. *Standard Ins. Co.*, 679 F. 3d 116, 121 (CA3

2012); *McCartha* v. *National City Corp.*, 419 F. 3d 437, 441 (CA6 2005). Second, participants are not likely to value judicial review of plan determinations over internal review. Many plans (including this Plan) vest discretion over benefits determinations in plan administrators. See *Firestone Tire & Rubber Co.* v. *Bruch*, 489 U. S. 101, 111–112 (1989) (permitting the vesting of discretion); see also App. in No. 12–651–cv (CA2), p. 34. Courts ordinarily review determinations by such plans only for abuse of discretion. *Metropolitan Life Ins. Co.* v. *Glenn*, 554 U. S. 105, 115–116 (2008). In short, participants have much to lose and little to gain by giving up the full measure of internal review in favor of marginal extra time to seek judicial review.

3

Heimeshoff and the United States next warn that it will endanger judicial review to allow plans to set limitations periods that begin to run before internal review is complete. The United States suggests that administrators may attempt to prevent judicial review by delaying the resolution of claims in bad faith. Brief for United States as *Amicus Curiae* 19; see also *White*, 488 F. 3d, at 247–248. But administrators are required by the regulations governing the internal review process to take prompt action, see *supra*, at 110–111, and the penalty for failure to meet those deadlines is immediate access to judicial review for the participant. 29 CFR §2560.503–1(l). In addition, that sort of dilatory behavior may implicate one of the traditional defenses to a statute of limitations. See *infra*, at 114–115.

The United States suggests that even good-faith administration of internal review will significantly diminish the availability of judicial review if this limitations provision is enforced. Forty years of ERISA administration suggest otherwise. The limitations provision at issue is quite common; the vast majority of States require certain insurance policies to include 3-year limitations periods that run from

the date proof of loss is due.[5] But there is no significant evidence that limitations provisions like the one here have similarly thwarted judicial review. As explained above, see *supra*, at 110–111, ERISA regulations structure internal review to proceed in an expeditious manner. It stands to reason that the cases in which internal review leaves participants with less than one year to file suit are rare. Heimeshoff identifies only a handful of cases in which § 502(a)(1)(B) plaintiffs are actually time barred as a result of this 3-year limitations provision. See *Abena* v. *Metropolitan Life Ins. Co.*, 544 F. 3d 880 (CA7 2008); *Touqan* v. *Metropolitan Life Ins. Co.*, 2012 WL 3465493 (ED Mich., Aug. 14, 2012); *Smith* v. *Unum Provident*, 2012 WL 1436458 (WD Ky.,

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[5] See Ala. Code §§ 27–19–14, 27–20–5(7) (2007); Alaska Stat. § 21.54.030(7) (2012); Ark. Code Ann. §§ 23–85–116, 23–86–102(c)(7) (2004); Cal. Ins. Code Ann. § 10350.11 (West 2013); Colo. Rev. Stat. Ann. § 10–16–202(12) (2013); Conn. Gen. Stat. § 38a–483(a)(11) (2012); Del. Code Ann., Tit. 18, §§ 3315, 3541(7) (1999); Ga. Code Ann. § 33–29–3(b)(11) (2013); Haw. Rev. Stat. § 431:10A–105(11) (Cum. Supp. 2012); Idaho Code §§ 41–2115, 41–2207(7) (Lexis 2010); Ill. Comp. Stat., ch. 215, § 5/357.12 (West 2012); Ind. Code § 27–8–5–3(a)(11) (2004); Iowa Code § 514A.3(1)(*k*) (2009); Ky. Rev. Stat. Ann. §§ 304.17–150, 304.18–070(7) (West 2012); Me. Rev. Stat. Ann., Tit. 24–A, § 2715 (2000); Mass. Gen. Laws, ch. 175, § 108(3)(a)(11) (West 2010); Mich. Comp. Laws § 500.3422 (2002); Minn. Stat. § 62A.04(2)(11) (2012); Miss. Code Ann. § 83–9–5(1)(k) (2011); Mo. Rev. Stat. § 376.777(1)(11) (2000); Mont. Code Ann. § 33–22–602(7) (2013); Neb. Rev. Stat. § 44–710.03(11) (2010); Nev. Rev. Stat. §§ 689A.150, 689B.080(9) (2011); N. H. Rev. Stat. Ann. § 415:6(I)(11) (West Cum. Supp. 2012); N. J. Stat. Ann. § 17B:26–14 (West 2006); N. M. Stat. Ann. § 59A–22–14 (2013); N. Y. Ins. Law Ann. § 3216(d)(1)(K) (West Supp. 2013); N. C. Gen. Stat. Ann. § 58–51–15(a)(11) (Lexis 2011); N. D. Cent. Code Ann. § 26.1–36–05(14) (Lexis 2010); Ohio Rev. Code Ann. § 3923.04(K) (Lexis 2010); Okla. Stat., Tit. 36, § 4405(A)(11) (West 2011); Ore. Rev. Stat. § 743.441 (2011); 40 Pa. Cons. Stat. § 753(A)(11) (1999); R. I. Gen. Laws § 27–18–3(a)(11) (Lexis 2008); S. D. Codified Laws § 58–18–27 (2004); Tenn. Code Ann. § 56–26–108(11) (2008); Tex. Ins. Code Ann. § 1201.217 (West Cum. Supp. 2012); Vt. Stat. Ann., Tit. 8, § 4065(11) (2009); Va. Code Ann. § 38.2–3540 (Lexis 2007); Wash. Rev. Code § 48.20.142 (2012); W. Va. Code Ann. § 33–15–4(k) (Lexis 2011); Wyo. Stat. Ann. §§ 26–18–115, 26–19–107(a)(vii) (2013).

Apr. 24, 2012); *Fry* v. *Hartford Ins. Co.*, 2011 WL 1672474 (WDNY, May 3, 2011); *Rotondi* v. *Hartford Life & Acc. Group*, 2010 WL 3720830 (SDNY, Sept. 22, 2010). Those cases suggest that this barrier falls on participants who have not diligently pursued their rights. See *Abena*, *supra*, at 884 (by his own admission, there was "no reason" plaintiff could not have filed suit during the remaining seven months of limitations period); *Smith*, *supra*, at *2 (plaintiff filed suit four years after the limitations period expired, and six years after final denial); *Rotondi*, *supra*, at *8 ("Application of the . . . limitations period works no unfairness here"); see also *Rice*, 578 F. 3d, at 457 (the participant "has not established that he has been diligently pursuing his rights" and "has given no reason for his late filing"); *Burke*, 572 F. 3d, at 81 (following exhaustion, "two years and five months of the limitations period remained"); *Salerno* v. *Prudential Ins. Co. of America*, 2009 WL 2412732, *6 (NDNY, Aug. 3, 2009) ("Plaintiff's proof of loss was untimely by over ten years"). The evidence that this 3-year limitations provision harms diligent participants is far too insubstantial to set aside the plain terms of the contract.

Moreover, even in the rare cases where internal review prevents participants from bringing § 502(a)(1)(B) actions within the contractual period, courts are well equipped to apply traditional doctrines that may nevertheless allow participants to proceed. If the administrator's conduct causes a participant to miss the deadline for judicial review, waiver or estoppel may prevent the administrator from invoking the limitations provision as a defense. See, *e. g.*, *Thompson* v. *Phenix Ins. Co.*, 136 U. S. 287, 298–299 (1890); *LaMantia* v. *Voluntary Plan Adm'rs, Inc.*, 401 F. 3d 1114, 1119 (CA9 2005). To the extent the participant has diligently pursued both internal review and judicial review but was prevented from filing suit by extraordinary circumstances, equitable tolling may apply. *Irwin* v. *Department of Veterans Affairs*, 498 U. S. 89, 95 (1990) (limitations defenses "in lawsuits

between private litigants are customarily subject to 'equitable tolling' '").[6] Finally, in addition to those traditional remedies, plans that offer appeals or dispute resolution beyond what is contemplated in the internal review regulations must agree to toll the limitations provision during that time. 29 CFR § 2560.503–1(c)(3)(ii). Thus, we are not persuaded that the Plan's limitations provision is inconsistent with ERISA.

C

Two additional arguments warrant mention. First, Heimeshoff argues—for the first time in this litigation—that the limitations period should be tolled as a matter of course during internal review. By effectively delaying the commencement of the limitations period until the conclusion of internal review, however, this approach reconstitutes the contractual revision we declined to make. As we explained, the parties' agreement should be enforced unless the limitations period is unreasonably short or foreclosed by ERISA. The limitations period here is neither. See *supra*, at 109–114 and this page.

Nor do the ERISA regulations require tolling during internal review. A plan must agree to toll the limitations provision only in one particular circumstance: when a plan offers voluntary internal appeals beyond what is permitted by regulation. § 2560.503–1(c)(3)(ii). Even then, the limitations period is tolled only during that specific portion of internal review. This limited tolling requirement would be superfluous if the regulations contemplated tolling throughout the process.

Finally, relying on our decision in *Hardin* v. *Straub*, 490 U. S. 536 (1989), Heimeshoff contends that we must inquire whether state law would toll the limitations period throughout the exhaustion process. In *Hardin*, we interpreted 42 U. S. C. § 1983 to borrow a State's statutory limitations pe-

[6] Whether the Court of Appeals properly declined to apply those doctrines in this case is not before us. 569 U. S. 917 (2013); Pet. for Cert. i.

riod. We recognized that when a federal statute is deemed to borrow a State's limitations period, the State's tolling rules are ordinarily borrowed as well because "'[i]n virtually all statutes of limitations the chronological length of the limitation period is interrelated with provisions regarding tolling . . . .'" 490 U. S., at 539 (quoting *Johnson* v. *Railway Express Agency, Inc.*, 421 U. S. 454, 464 (1975)); see also *Board of Regents of Univ. of State of N. Y.* v. *Tomanio*, 446 U. S. 478, 484 (1980) (in § 1983 actions "a state statute of limitations and the coordinate tolling rules" are "binding rules of law"). But here, unlike in *Hardin*, the parties have adopted a limitations period by contract. Under these circumstances, where there is no need to borrow a state statute of limitations there is no need to borrow concomitant state tolling rules.

IV

We hold that the Plan's limitations provision is enforceable. The judgment is, accordingly, affirmed.

It is so ordered.

Syllabus

DAIMLER AG *v.* BAUMAN ET AL.

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

No. 11–965. Argued October 15, 2013—Decided January 14, 2014

Plaintiffs (respondents here) are 22 residents of Argentina who filed suit in California Federal District Court, naming as a defendant Daimler-Chrysler Aktiengesellschaft (Daimler), a German public stock company that is the predecessor to petitioner Daimler AG. Their complaint alleges that Mercedes-Benz Argentina (MB Argentina), an Argentinian subsidiary of Daimler, collaborated with state security forces during Argentina's 1976–1983 "Dirty War" to kidnap, detain, torture, and kill certain MB Argentina workers, among them, plaintiffs or persons closely related to plaintiffs. Based on those allegations, plaintiffs asserted claims under the Alien Tort Statute and the Torture Victim Protection Act of 1991, as well as under California and Argentina law. Personal jurisdiction over Daimler was predicated on the California contacts of Mercedes-Benz USA, LLC (MBUSA), another Daimler subsidiary, one incorporated in Delaware with its principal place of business in New Jersey. MBUSA distributes Daimler-manufactured vehicles to independent dealerships throughout the United States, including California. Daimler moved to dismiss the action for want of personal jurisdiction. Opposing that motion, plaintiffs argued that jurisdiction over Daimler could be founded on the California contacts of MBUSA. The District Court granted Daimler's motion to dismiss. Reversing the District Court's judgment, the Ninth Circuit held that MBUSA, which it assumed to fall within the California courts' all-purpose jurisdiction, was Daimler's "agent" for jurisdictional purposes, so that Daimler, too, should generally be answerable to suit in that State.

Held: Daimler is not amenable to suit in California for injuries allegedly caused by conduct of MB Argentina that took place entirely outside the United States. Pp. 125–142.

(a) California's long-arm statute allows the exercise of personal jurisdiction to the full extent permissible under the U. S. Constitution. Thus, the inquiry here is whether the Ninth Circuit's holding comports with the limits imposed by federal due process. See Fed. Rule Civ. Proc. 4(k)(1)(A). P. 125.

(b) For a time, this Court held that a tribunal's jurisdiction over persons was necessarily limited by the geographic bounds of the forum. See *Pennoyer* v. *Neff*, 95 U. S. 714. That rigidly territorial focus even-

tually yielded to a less wooden understanding, exemplified by the Court's pathmarking decision in *International Shoe Co.* v. *Washington*, 326 U. S. 310. *International Shoe* presaged the recognition of two personal jurisdiction categories: One category, today called "specific jurisdiction," see *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915, 923–924, encompasses cases in which the suit "arise[s] out of or relate[s] to the defendant's contacts with the forum," *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 414, n. 8. *International Shoe* distinguished exercises of specific, case-based jurisdiction from a category today known as "general jurisdiction," exercisable when a foreign corporation's "continuous corporate operations within a state [are] so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities." 326 U. S., at 318.

Since *International Shoe*, "specific jurisdiction has become the centerpiece of modern jurisdiction theory." *Goodyear*, 564 U. S., at 925. This Court's general jurisdiction opinions, in contrast, have been few. See *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437, *Helicopteros*, 466 U. S., at 416, and *Goodyear*, 564 U. S., at 927–928. As is evident from these post-*International Shoe* decisions, while specific jurisdiction has been cut loose from *Pennoyer*'s sway, general jurisdiction has not been stretched beyond limits traditionally recognized. Pp. 125–133.

(c) Even assuming, for purposes of this decision, that MBUSA qualifies as at home in California, Daimler's affiliations with California are not sufficient to subject it to the general jurisdiction of that State's courts. Pp. 133–142.

(1) Whatever role agency theory might play in the context of general jurisdiction, the Court of Appeals' analysis in this case cannot be sustained. The Ninth Circuit's agency determination rested primarily on its observation that MBUSA's services were "important" to Daimler, as gauged by Daimler's hypothetical readiness to perform those services itself if MBUSA did not exist. But if "importan[ce]" in this sense were sufficient to justify jurisdictional attribution, foreign corporations would be amenable to suit on any or all claims wherever they have an in-state subsidiary or affiliate, an outcome that would sweep beyond even the "sprawling view of general jurisdiction" rejected in *Goodyear*. 564 U. S., at 929. Pp. 134–136.

(2) Even assuming that MBUSA is at home in California and that MBUSA's contacts are imputable to Daimler, there would still be no basis to subject Daimler to general jurisdiction in California. The paradigm all-purpose forums for general jurisdiction are a corporation's place of incorporation and principal place of business. *Goodyear*, 564 U. S., at 924. Plaintiffs' reasoning, however, would reach well beyond

these exemplar bases to approve the exercise of general jurisdiction in every State in which a corporation "engages in a substantial, continuous, and systematic course of business." Brief for Respondents 16–17, and nn. 7–8. The words "continuous and systematic," plaintiffs and the Court of Appeals overlooked, were used in *International Shoe* to describe situations in which the exercise of *specific* jurisdiction would be appropriate. See 326 U. S., at 317. With respect to all-purpose jurisdiction, *International Shoe* spoke instead of "instances in which the continuous corporate operations within a state [are] so substantial and of such a nature as to justify suit . . . on causes of action arising from dealings entirely distinct from those activities." *Id.*, at 318. Accordingly, the proper inquiry, this Court has explained, is whether a foreign corporation's "affiliations with the State are so 'continuous and systematic' as to render [it] essentially at home in the forum State." *Goodyear*, 564 U. S., at 919.

Neither Daimler nor MBUSA is incorporated in California, nor does either entity have its principal place of business there. If Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California, the same global reach would presumably be available in every other State in which MBUSA's sales are sizable. No decision of this Court sanctions a view of general jurisdiction so grasping. The Ninth Circuit, therefore, had no warrant to conclude that Daimler, even with MBUSA's contacts attributed to it, was at home in California, and hence subject to suit there on claims by foreign plaintiffs having nothing to do with anything that occurred or had its principal impact in California. Pp. 136–139.

(3) Finally, the transnational context of this dispute bears attention. This Court's recent precedents have rendered infirm plaintiffs' Alien Tort Statute and Torture Victim Protection Act claims. See *Kiobel* v. *Royal Dutch Petroleum Co.*, 569 U. S. 108, 124, and *Mohamad* v. *Palestinian Authority*, 566 U. S. 449, 451–452. The Ninth Circuit, moreover, paid little heed to the risks to international comity posed by its expansive view of general jurisdiction. Pp. 140–142.

644 F. 3d 909, reversed.

GINSBURG, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, BREYER, ALITO, and KAGAN, JJ., joined. SOTOMAYOR, J., filed an opinion concurring in the judgment, *post*, p. 142.

Thomas H. Dupree, Jr., argued the cause for petitioner. With him on the briefs were *Theodore B. Olson*, *Daniel W.*

Nelson, *Amir C. Tayrani*, *Matthew J. Kemner*, *David M. Rice*, and *Troy M. Yoshino*.

Deputy Solicitor General Kneedler argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Delery*, *Benjamin J. Horwich*, and *Michael S. Raab*.

Kevin K. Russell argued the cause for respondents. With him on the brief were *Terrence P. Collingsworth*, *Christian Levesque*, *Pamela S. Karlan*, and *Jeffrey L. Fisher*.*

JUSTICE GINSBURG delivered the opinion of the Court.

This case concerns the authority of a court in the United States to entertain a claim brought by foreign plaintiffs against a foreign defendant based on events occurring entirely outside the United States. The litigation commenced in 2004, when 22 Argentinian residents[1] filed a complaint in the United States District Court for the Northern District

*Briefs of *amici curiae* urging reversal were filed for the Alliance of Automobile Manufacturers, Inc., et al. by *Herbert Rubin*, *Bernard J. Wald*, *Ian Ceresney*, and *Linda M. Brown*; for the Atlantic Legal Foundation by *Martin S. Kaufman*; for the Chamber of Commerce of the United States of America et al. by *Peter B. Rutledge*, *Kathryn Comerford Todd*, and *Tyler R. Green*; for Economiesuisse et al. by *Andrew J. Pincus*, *Alex C. Lakatos*, and *Paul W. Hughes*; for the New England Legal Foundation et al. by *Benjamin G. Robbins* and *Martin J. Newhouse*; for the Product Liability Advisory Council, Inc., by *Jonathan M. Hoffman*; for Viega GmbH & Co. KG et al. by *Pat Lundvall*, *Debbie Leonard*, and *Amanda C. Yen*; and for Lea Brilmayer by *Joseph R. Knight*, *Evan A. Young*, and *Ms. Brilmayer*, *pro se*.

Briefs of *amici curiae* urging affirmance were filed for the American Association for Justice by *Alan B. Morrison*, *J. Burton LeBlanc IV*, *Erwin Chemerinsky*, *Jack Friedenthal*, *Arthur R. Miller*, and *Robert S. Peck*; and for the German Institute for Human Rights et al. by *Katherine M. Gallagher*.

Richard L. Herz and *Marco B. Simons* filed a brief for EarthRights International as *amicus curiae*.

[1] One plaintiff is a resident of Argentina and a citizen of Chile; all other plaintiffs are residents and citizens of Argentina.

of California against DaimlerChrysler Aktiengesellschaft (Daimler),[2] a German public stock company, headquartered in Stuttgart, that manufactures Mercedes-Benz vehicles in Germany. The complaint alleged that during Argentina's 1976–1983 "Dirty War," Daimler's Argentinian subsidiary, Mercedes-Benz Argentina (MB Argentina) collaborated with state security forces to kidnap, detain, torture, and kill certain MB Argentina workers, among them, plaintiffs or persons closely related to plaintiffs. Damages for the alleged human-rights violations were sought from Daimler under the laws of the United States, California, and Argentina. Jurisdiction over the lawsuit was predicated on the California contacts of Mercedes-Benz USA, LLC (MBUSA), a subsidiary of Daimler incorporated in Delaware with its principal place of business in New Jersey. MBUSA distributes Daimler-manufactured vehicles to independent dealerships throughout the United States, including California.

The question presented is whether the Due Process Clause of the Fourteenth Amendment precludes the District Court from exercising jurisdiction over Daimler in this case, given the absence of any California connection to the atrocities, perpetrators, or victims described in the complaint. Plaintiffs invoked the court's general or all-purpose jurisdiction. California, they urge, is a place where Daimler may be sued on any and all claims against it, wherever in the world the claims may arise. For example, as plaintiffs' counsel affirmed, under the proffered jurisdictional theory, if a Daimler-manufactured vehicle overturned in Poland, injuring a Polish driver and passenger, the injured parties could maintain a design defect suit in California. See Tr. of Oral Arg. 28–29. Exercises of personal jurisdiction so exorbi-

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[2] Daimler was restructured in 2007 and is now known as Daimler AG. No party contends that any postsuit corporate reorganization bears on our disposition of this case. This opinion refers to members of the Daimler corporate family by the names current at the time plaintiffs filed suit.

tant, we hold, are barred by due process constraints on the assertion of adjudicatory authority.

In *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915 (2011), we addressed the distinction between general or all-purpose jurisdiction, and specific or conduct-linked jurisdiction. As to the former, we held that a court may assert jurisdiction over a foreign corporation "to hear any and all claims against [it]" only when the corporation's affiliations with the State in which suit is brought are so constant and pervasive "as to render [it] essentially at home in the forum State." *Id.*, at 919. Instructed by *Goodyear*, we conclude Daimler is not "at home" in California, and cannot be sued there for injuries plaintiffs attribute to MB Argentina's conduct in Argentina.

I

In 2004, plaintiffs (respondents here) filed suit in the United States District Court for the Northern District of California, alleging that MB Argentina collaborated with Argentinian state security forces to kidnap, detain, torture, and kill plaintiffs and their relatives during the military dictatorship in place there from 1976 through 1983, a period known as Argentina's "Dirty War." Based on those allegations, plaintiffs asserted claims under the Alien Tort Statute, 28 U. S. C. § 1350, and the Torture Victim Protection Act of 1991, 106 Stat. 73, note following 28 U. S. C. § 1350, as well as claims for wrongful death and intentional infliction of emotional distress under the laws of California and Argentina. The incidents recounted in the complaint center on MB Argentina's plant in Gonzalez Catan, Argentina; no part of MB Argentina's alleged collaboration with Argentinian authorities took place in California or anywhere else in the United States.

Plaintiffs' operative complaint names only one corporate defendant: Daimler, the petitioner here. Plaintiffs seek to hold Daimler vicariously liable for MB Argentina's alleged

malfeasance. Daimler is a German *Aktiengesellschaft* (public stock company) that manufactures Mercedes-Benz vehicles primarily in Germany and has its headquarters in Stuttgart. At times relevant to this case, MB Argentina was a subsidiary wholly owned by Daimler's predecessor in interest.

Daimler moved to dismiss the action for want of personal jurisdiction. Opposing the motion, plaintiffs submitted declarations and exhibits purporting to demonstrate the presence of Daimler itself in California. Alternatively, plaintiffs maintained that jurisdiction over Daimler could be founded on the California contacts of MBUSA, a distinct corporate entity that, according to plaintiffs, should be treated as Daimler's agent for jurisdictional purposes.

MBUSA, an indirect subsidiary of Daimler, is a Delaware limited liability corporation.[3] MBUSA serves as Daimler's exclusive importer and distributor in the United States, purchasing Mercedes-Benz automobiles from Daimler in Germany, then importing those vehicles, and ultimately distributing them to independent dealerships located throughout the Nation. Although MBUSA's principal place of business is in New Jersey, MBUSA has multiple California-based facilities, including a regional office in Costa Mesa, a Vehicle Preparation Center in Carson, and a Classic Center in Irvine. According to the record developed below, MBUSA is the largest supplier of luxury vehicles to the California market. In particular, over 10% of all sales of new vehicles in the United States take place in California, and MBUSA's California sales account for 2.4% of Daimler's worldwide sales.

The relationship between Daimler and MBUSA is delineated in a General Distributor Agreement, which sets forth requirements for MBUSA's distribution of Mercedes-Benz vehicles in the United States. That agreement established MBUSA as an "independent contracto[r]" that "buy[s] and

[3] At times relevant to this suit, MBUSA was wholly owned by DaimlerChrysler North America Holding Corporation, a Daimler subsidiary.

sell[s] [vehicles] . . . as an independent business for [its] own account." App. 179a. The agreement "does not make [MBUSA] . . . a general or special agent, partner, joint venturer or employee of DAIMLERCHRYSLER or any DaimlerChrysler Group Company"; MBUSA "ha[s] no authority to make binding obligations for or act on behalf of DAIMLERCHRYSLER or any DaimlerChrysler Group Company." *Ibid.*

After allowing jurisdictional discovery on plaintiffs' agency allegations, the District Court granted Daimler's motion to dismiss. Daimler's own affiliations with California, the court first determined, were insufficient to support the exercise of all-purpose jurisdiction over the corporation. *Bauman* v. *DaimlerChrysler AG*, No. C–04–00194 RMW (ND Cal., Nov. 22, 2005), App. to Pet. for Cert. 111a–112a, 2005 WL 3157472, *9–*10. Next, the court declined to attribute MBUSA's California contacts to Daimler on an agency theory, concluding that plaintiffs failed to demonstrate that MBUSA acted as Daimler's agent. *Id.*, at 117a, 133a, 2005 WL 3157472, *12, *19; *Bauman* v. *DaimlerChrysler AG*, No. C–04–00194 RMW (ND Cal., Feb. 12, 2007), App. to Pet. for Cert. 83a–85a, 2007 WL 486389, *2.

The Ninth Circuit at first affirmed the District Court's judgment. Addressing solely the question of agency, the Court of Appeals held that plaintiffs had not shown the existence of an agency relationship of the kind that might warrant attribution of MBUSA's contacts to Daimler. *Bauman* v. *DaimlerChrysler Corp.*, 579 F. 3d 1088, 1096–1097 (2009). Judge Reinhardt dissented. In his view, the agency test was satisfied and considerations of "reasonableness" did not bar the exercise of jurisdiction. *Id.*, at 1098–1106. Granting plaintiffs' petition for rehearing, the panel withdrew its initial opinion and replaced it with one authored by Judge Reinhardt, which elaborated on reasoning he initially expressed in dissent. *Bauman* v. *DaimlerChrysler Corp.*, 644 F. 3d 909 (CA9 2011).

Daimler petitioned for rehearing and rehearing en banc, urging that the exercise of personal jurisdiction over Daimler could not be reconciled with this Court's decision in *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915 (2011). Over the dissent of eight judges, the Ninth Circuit denied Daimler's petition. See *Bauman* v. *DaimlerChrysler Corp.*, 676 F. 3d 774 (2011) (O'Scannlain, J., dissenting from denial of rehearing en banc).

We granted certiorari to decide whether, consistent with the Due Process Clause of the Fourteenth Amendment, Daimler is amenable to suit in California courts for claims involving only foreign plaintiffs and conduct occurring entirely abroad. 569 U. S. 946 (2013).

II

Federal courts ordinarily follow state law in determining the bounds of their jurisdiction over persons. See Fed. Rule Civ. Proc. 4(k)(1)(A) (service of process is effective to establish personal jurisdiction over a defendant "who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located"). Under California's long-arm statute, California state courts may exercise personal jurisdiction "on any basis not inconsistent with the Constitution of this state or of the United States." Cal. Civ. Proc. Code Ann. § 410.10 (West 2004). California's long-arm statute allows the exercise of personal jurisdiction to the full extent permissible under the U. S. Constitution. We therefore inquire whether the Ninth Circuit's holding comports with the limits imposed by federal due process. See, *e. g.*, *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 464 (1985).

III

In *Pennoyer* v. *Neff*, 95 U. S. 714 (1878), decided shortly after the enactment of the Fourteenth Amendment, the Court held that a tribunal's jurisdiction over persons reaches no farther than the geographic bounds of the forum. See

id., at 720 ("The authority of every tribunal is necessarily restricted by the territorial limits of the State in which it is established."). See also *Shaffer* v. *Heitner*, 433 U. S. 186, 197 (1977) (Under *Pennoyer*, "any attempt 'directly' to assert extraterritorial jurisdiction over persons or property would offend sister States and exceed the inherent limits of the State's power."). In time, however, that strict territorial approach yielded to a less rigid understanding, spurred by "changes in the technology of transportation and communication, and the tremendous growth of interstate business activity." *Burnham* v. *Superior Court of Cal., County of Marin*, 495 U. S. 604, 617 (1990) (opinion of SCALIA, J.).

"The canonical opinion in this area remains *International Shoe*, 326 U. S. 310, in which we held that a State may authorize its courts to exercise personal jurisdiction over an out-of-state defendant if the defendant has 'certain minimum contacts with [the State] such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice."' " *Goodyear*, 564 U. S., at 923 (quoting *International Shoe Co.* v. *Washington*, 326 U. S. 310, 316 (1945)). Following *International Shoe*, "the relationship among the defendant, the forum, and the litigation, rather than the mutually exclusive sovereignty of the States on which the rules of *Pennoyer* rest, became the central concern of the inquiry into personal jurisdiction." *Shaffer*, 433 U. S., at 204.

International Shoe's conception of "fair play and substantial justice" presaged the development of two categories of personal jurisdiction. The first category is represented by *International Shoe* itself, a case in which the in-state activities of the corporate defendant "ha[d] not only been continuous and systematic, but also g[a]ve rise to the liabilities sued on." 326 U. S., at 317.[4] *International Shoe* recognized, as

[4] *International Shoe* was an action by the State of Washington to collect payments to the State's unemployment fund. Liability for the payments rested on in-state activities of resident sales solicitors engaged by

well, that "the commission of some single or occasional acts of the corporate agent in a state" may sometimes be enough to subject the corporation to jurisdiction in that State's tribunals with respect to suits relating to that in-state activity. *Id.*, at 318. Adjudicatory authority of this order, in which the suit "aris[es] out of or relate[s] to the defendant's contacts with the forum," *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 414, n. 8 (1984), is today called "specific jurisdiction." See *Goodyear*, 564 U. S., at 923–924 (citing von Mehren & Trautman, Jurisdiction To Adjudicate: A Suggested Analysis, 79 Harv. L. Rev. 1121, 1144–1163 (1966) (hereinafter von Mehren & Trautman)).

International Shoe distinguished between, on the one hand, exercises of specific jurisdiction, as just described, and on the other, situations where a foreign corporation's "continuous corporate operations within a state [are] so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities." 326 U. S., at 318. As we have since explained, "[a] court may assert general jurisdiction over foreign (sister-state or foreign-country) corporations to hear any and all claims against them when their affiliations with the State are so 'continuous and systematic' as to render them essentially at home in the forum State." *Goodyear*, 564 U. S., at 919; see *id.*, at 925; *Helicopteros*, 466 U. S., at 414, n. 9.[5]

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the corporation to promote its wares in Washington. See 326 U. S., at 313–314.

[5] Colloquy at oral argument illustrated the respective provinces of general and specific jurisdiction over persons. Two hypothetical scenarios were posed: *First*, if a California plaintiff, injured in a California accident involving a Daimler-manufactured vehicle, sued Daimler in California court alleging that the vehicle was defectively designed, that court's adjudicatory authority would be premised on specific jurisdiction. See Tr. of Oral Arg. 11 (Daimler's counsel acknowledged that specific jurisdiction "may well be . . . available" in such a case, depending on whether Daimler purposefully availed itself of the forum). *Second*, if a similar accident

Since *International Shoe*, "specific jurisdiction has become the centerpiece of modern jurisdiction theory, while general jurisdiction [has played] a reduced role." *Goodyear*, 564 U. S., at 925 (quoting Twitchell, The Myth of General Jurisdiction, 101 Harv. L. Rev. 610, 628 (1988)). *International Shoe*'s momentous departure from *Pennoyer*'s rigidly territorial focus, we have noted, unleashed a rapid expansion of tribunals' ability to hear claims against out-of-state defendants when the episode-in-suit occurred in the forum or the defendant purposefully availed itself of the forum.[6] Our subsequent decisions have continued to bear out the prediction that "specific jurisdiction will come into sharper relief and form a considerably more significant part of the scene." von Mehren & Trautman 1164.[7]

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took place in Poland and injured Polish plaintiffs sued Daimler in California court, the question would be one of general jurisdiction. See *id.*, at 29 (in plaintiffs' view, Daimler would be amenable to such a suit in California).

[6] See *Shaffer* v. *Heitner*, 433 U. S. 186, 204 (1977) ("The immediate effect of [*International Shoe*'s] departure from *Pennoyer*'s conceptual apparatus was to increase the ability of the state courts to obtain personal jurisdiction over nonresident defendants."); *McGee* v. *International Life Ins. Co.*, 355 U. S. 220, 222 (1957) ("[A] trend is clearly discernible toward expanding the permissible scope of state jurisdiction over foreign corporations and other nonresidents."). For an early codification, see Uniform Interstate and International Procedure Act § 1.02 (describing jurisdiction based on "[e]nduring [r]elationship" to encompass a person's domicile or a corporation's place of incorporation or principal place of business, and providing that "any . . . claim for relief" may be brought in such a place), § 1.03 (describing jurisdiction "[b]ased upon [c]onduct," limited to claims arising from the enumerated acts, *e. g.*, "transacting any business in th[e] state," "contracting to supply services or things in th[e] state," or "causing tortious injury by an act or omission in th[e] state"), 9B U. L. A. 308, 310 (1966).

[7] See, *e. g.*, *Asahi Metal Industry Co.* v. *Superior Court of Cal., Solano Cty.*, 480 U. S. 102, 112 (1987) (opinion of O'Connor, J.) (specific jurisdiction may lie over a foreign defendant that places a product into the "stream of commerce" while also "designing the product for the market in the forum State, advertising in the forum State, establishing channels for providing

Our post-*International Shoe* opinions on general jurisdiction, by comparison, are few. "[The Court's] 1952 decision in *Perkins* v. *Benguet Consol. Mining Co.* remains the textbook case of general jurisdiction appropriately exercised over a foreign corporation that has not consented to suit in the forum." *Goodyear*, 564 U. S., at 927–928 (internal quotation marks and brackets omitted). The defendant in *Perkins*, Benguet, was a company incorporated under the laws of the Philippines, where it operated gold and silver mines. Benguet ceased its mining operations during the Japanese occupation of the Philippines in World War II; its president moved to Ohio, where he kept an office, maintained the company's files, and oversaw the company's activities. *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437, 448 (1952). The plaintiff, an Ohio resident, sued Benguet on a claim that neither arose in Ohio nor related to the corporation's activities in that State. We held that the Ohio courts could exercise general jurisdiction over Benguet without offending due

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regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State"); *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 297 (1980) ("[I]f the sale of a product of a manufacturer or distributor such as Audi or Volkswagen is not simply an isolated occurrence, but arises from the efforts of the manufacturer or distributor to serve, directly or indirectly, the market for its product in other States, it is not unreasonable to subject it to suit in one of those States if its allegedly defective merchandise has there been the source of injury to its owner or to others."); *Calder* v. *Jones*, 465 U. S. 783, 789–790 (1984) (California court had specific jurisdiction to hear suit brought by California plaintiff where Florida-based publisher of a newspaper having its largest circulation in California published an article allegedly defaming the complaining Californian; under those circumstances, defendants "must 'reasonably anticipate being haled into [a California] court' "); *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 780–781 (1984) (New York resident may maintain suit for libel in New Hampshire state court against California-based magazine that sold 10,000 to 15,000 copies in New Hampshire each month; as long as the defendant "continuously and deliberately exploited the New Hampshire market," it could reasonably be expected to answer a libel suit there).

process. *Ibid.* That was so, we later noted, because "Ohio was the corporation's principal, if temporary, place of business." *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 780, n. 11 (1984).[8]

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[8] Selectively referring to the trial court record in *Perkins* (as summarized in an opinion of the intermediate appellate court), JUSTICE SOTOMAYOR posits that Benguet may have had extensive operations in places other than Ohio. See *post*, at 153, n. 8 (opinion concurring in judgment) ("By the time the suit [in *Perkins*] was commenced, the company had resumed its considerable mining operations in the Philippines, rebuilding its properties there and purchasing machinery, supplies and equipment." (internal quotation marks omitted)). See also *post*, at 148, n. 5 (many of the corporation's "key management decisions" were made by the out-of-state purchasing agent and chief of staff). JUSTICE SOTOMAYOR's account overlooks this Court's opinion in *Perkins* and the point on which that opinion turned: All of Benguet's activities were directed by the company's president from within Ohio. See *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437, 447–448 (1952) (company's Philippine mining operations "were completely halted during the occupation . . . by the Japanese"; and the company's president, from his Ohio office, "supervised policies dealing with the rehabilitation of the corporation's properties in the Philippines and . . . dispatched funds to cover purchases of machinery for such rehabilitation"). On another day, JUSTICE SOTOMAYOR joined a unanimous Court in recognizing: "To the extent that the company was conducting any business during and immediately after the Japanese occupation of the Philippines, it was doing so in Ohio . . . ." *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915, 928 (2011). Given the wartime circumstances, Ohio could be considered "a surrogate for the place of incorporation or head office." von Mehren & Trautman 1144. See also *ibid.* (*Perkins* "should be regarded as a decision on its exceptional facts, not as a significant reaffirmation of obsolescing notions of general jurisdiction" based on nothing more than a corporation's "doing business" in a forum).

JUSTICE SOTOMAYOR emphasizes *Perkins*' statement that Benguet's Ohio contacts, while "continuous and systematic," were but a "limited . . . part of its general business." 342 U. S., at 438. Describing the company's "wartime activities" as "necessarily limited," *id.*, at 448, however, this Court had in mind the diminution in operations resulting from the Japanese occupation and the ensuing shutdown of the company's Philippine mines. No fair reader of the full opinion in *Perkins* could conclude that the Court meant to convey anything other than that Ohio was the center of the corporation's wartime activities. But cf. *post*, at 150 ("If any-

The next case on point, *Helicopteros*, 466 U. S. 408, arose from a helicopter crash in Peru. Four U. S. citizens perished in that accident; their survivors and representatives brought suit in Texas state court against the helicopter's owner and operator, a Colombian corporation. That company's contacts with Texas were confined to "sending its chief executive officer to Houston for a contract-negotiation session; accepting into its New York bank account checks drawn on a Houston bank; purchasing helicopters, equipment, and training services from [a Texas-based helicopter company] for substantial sums; and sending personnel to [Texas] for training." *Id.*, at 416. Notably, those contacts bore no apparent relationship to the accident that gave rise to the suit. We held that the company's Texas connections did not resemble the "continuous and systematic general business contacts . . . found to exist in *Perkins*." *Ibid.* "[M]ere purchases, even if occurring at regular intervals," we clarified, "are not enough to warrant a State's assertion of *in personam* jurisdiction over a nonresident corporation in a cause of action not related to those purchase transactions." *Id.*, at 418.

Most recently, in *Goodyear*, we answered the question: "Are foreign subsidiaries of a United States parent corporation amenable to suit in state court on claims unrelated to any activity of the subsidiaries in the forum State?" 564 U. S., at 918. That case arose from a bus accident outside Paris that killed two boys from North Carolina. The boys' parents brought a wrongful-death suit in North Carolina state court alleging that the bus's tire was defectively manufactured. The complaint named as defendants not only The Goodyear Tire and Rubber Company (Goodyear), an Ohio corporation, but also Goodyear's Turkish, French, and Luxembourgian subsidiaries. Those foreign subsidiaries, which manufactured tires for sale in Europe and Asia, lacked any affiliation with North Carolina. A small percentage of tires

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thing, [*Perkins*] intimated that the defendant's Ohio contacts were *not* substantial in comparison to its contacts elsewhere.").

manufactured by the foreign subsidiaries were distributed in North Carolina, however, and on that ground, the North Carolina Court of Appeals held the subsidiaries amenable to the general jurisdiction of North Carolina courts.

We reversed, observing that the North Carolina court's analysis "elided the essential difference between case-specific and all-purpose (general) jurisdiction." *Id.*, at 927. Although the placement of a product into the stream of commerce "may bolster an affiliation germane to *specific* jurisdiction," we explained, such contacts "do not warrant a determination that, based on those ties, the forum has *general* jurisdiction over a defendant." *Ibid.* As *International Shoe* itself teaches, a corporation's "continuous activity of some sorts within a state is not enough to support the demand that the corporation be amenable to suits unrelated to that activity." 326 U. S., at 318. Because Goodyear's foreign subsidiaries were "in no sense at home in North Carolina," we held, those subsidiaries could not be required to submit to the general jurisdiction of that State's courts. 564 U. S., at 929. See also *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U. S. 873, 899 (2011) (GINSBURG, J., dissenting) (noting unanimous agreement that a foreign manufacturer, which engaged an independent U. S.-based distributor to sell its machines throughout the United States, could not be exposed to all-purpose jurisdiction in New Jersey courts based on those contacts).

As is evident from *Perkins*, *Helicopteros*, and *Goodyear*, general and specific jurisdiction have followed markedly different trajectories post-*International Shoe*. Specific jurisdiction has been cut loose from *Pennoyer*'s sway, but we have declined to stretch general jurisdiction beyond limits traditionally recognized.[9] As this Court has increasingly

[9] See generally von Mehren & Trautman 1177–1179. See also Twitchell, The Myth of General Jurisdiction, 101 Harv. L. Rev. 610, 676 (1988) ("[W]e do not need to justify broad exercises of dispute-blind jurisdiction unless our interpretation of the scope of specific jurisdiction unreasonably limits

trained on the "relationship among the defendant, the forum, and the litigation," *Shaffer*, 433 U. S., at 204, *i. e.*, specific jurisdiction,[10] general jurisdiction has come to occupy a less dominant place in the contemporary scheme.[11]

IV

With this background, we turn directly to the question whether Daimler's affiliations with California are sufficient to subject it to the general (all-purpose) personal jurisdiction of that State's courts. In the proceedings below, the parties agreed on, or failed to contest, certain points we now take as given. Plaintiffs have never attempted to fit this case into the *specific* jurisdiction category. Nor did plaintiffs challenge on appeal the District Court's holding that Daim-

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state authority over nonresident defendants."); Borchers, The Problem With General Jurisdiction, 2001 U. Chi. Legal Forum 119, 139 ("[G]eneral jurisdiction exists as an imperfect safety valve that sometimes allows plaintiffs access to a reasonable forum in cases when specific jurisdiction would deny it.").

[10] Remarkably, JUSTICE SOTOMAYOR treats specific jurisdiction as though it were barely there. Given the many decades in which specific jurisdiction has flourished, it would be hard to conjure up an example of the "deep injustice" JUSTICE SOTOMAYOR predicts as a consequence of our holding that California is not an all-purpose forum for suits against Daimler. *Post*, at 157. JUSTICE SOTOMAYOR identifies "the concept of reciprocal fairness" as the "touchstone principle of due process in this field." *Post*, at 151 (citing *International Shoe Co.* v. *Washington*, 326 U. S. 310, 319 (1945)). She overlooks, however, that in the very passage of *International Shoe* on which she relies, the Court left no doubt that it was addressing specific—not general—jurisdiction. See *id.*, at 319 ("The exercise of th[e] privilege [of conducting corporate activities within a State] may give rise to obligations, and, *so far as those obligations arise out of or are connected with the activities within the state*, a procedure which requires the corporation to respond to a suit brought to enforce them can, in most instances, hardly be said to be undue." (emphasis added)).

[11] As the Court made plain in *Goodyear* and repeats here, general jurisdiction requires affiliations "so 'continuous and systematic' as to render [the foreign corporation] essentially at home in the forum State." 564 U. S., at 919, *i. e.*, comparable to a domestic enterprise in that State.

ler's own contacts with California were, by themselves, too sporadic to justify the exercise of general jurisdiction. While plaintiffs ultimately persuaded the Ninth Circuit to impute MBUSA's California contacts to Daimler on an agency theory, at no point have they maintained that MBUSA is an alter ego of Daimler.

Daimler, on the other hand, failed to object below to plaintiffs' assertion that the California courts could exercise all-purpose jurisdiction over MBUSA.[12] But see Brief for Petitioner 23, n. 4 (suggestion that in light of *Goodyear*, MBUSA may not be amenable to general jurisdiction in California); Brief for United States as *Amicus Curiae* 16, n. 5 (hereinafter U. S. Brief) (same). We will assume then, for purposes of this decision only, that MBUSA qualifies as at home in California.

A

In sustaining the exercise of general jurisdiction over Daimler, the Ninth Circuit relied on an agency theory, determining that MBUSA acted as Daimler's agent for jurisdictional purposes and then attributing MBUSA's California contacts to Daimler. The Ninth Circuit's agency analysis derived from Circuit precedent considering principally whether the subsidiary "performs services that are sufficiently important to the foreign corporation that if it did not have a representative to perform them, the corporation's own officials would undertake to perform substantially similar services." 644 F. 3d, at 920 (quoting *Doe* v. *Unocal Corp.*, 248 F. 3d 915, 928 (CA9 2001); emphasis deleted).

This Court has not yet addressed whether a foreign corporation may be subjected to a court's general jurisdiction based on the contacts of its in-state subsidiary. Daimler argues, and several Courts of Appeals have held, that a subsidiary's jurisdictional contacts can be imputed to its parent only when the former is so dominated by the latter as to be

[12] MBUSA is not a defendant in this case.

its alter ego. The Ninth Circuit adopted a less rigorous test based on what it described as an "agency" relationship. Agencies, we note, come in many sizes and shapes: "One may be an agent for some business purposes and not others so that the fact that one may be an agent for one purpose does not make him or her an agent for every purpose." 2A C. J. S., Agency § 43, p. 367 (2013) (footnote omitted).[13] A subsidiary, for example, might be its parent's agent for claims arising in the place where the subsidiary operates, yet not its agent regarding claims arising elsewhere. The Court of Appeals did not advert to that prospect. But we need not pass judgment on invocation of an agency theory in the context of general jurisdiction, for in no event can the appeals court's analysis be sustained.

The Ninth Circuit's agency finding rested primarily on its observation that MBUSA's services were "important" to Daimler, as gauged by Daimler's hypothetical readiness to perform those services itself if MBUSA did not exist. For-

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[13] Agency relationships, we have recognized, may be relevant to the existence of *specific* jurisdiction. "[T]he corporate personality," *International Shoe* observed, "is a fiction, although a fiction intended to be acted upon as though it were a fact." 326 U. S., at 316. See generally 1 W. Fletcher, Cyclopedia of the Law of Corporations § 30, p. 30 (Supp. 2012–2013) ("A corporation is a distinct legal entity that can act only through its agents."). As such, a corporation can purposefully avail itself of a forum by directing its agents or distributors to take action there. See, *e. g.*, *Asahi*, 480 U. S., at 112 (opinion of O'Connor, J.) (defendant's act of "marketing [a] product through a distributor who has agreed to serve as the sales agent in the forum State" may amount to purposeful availment); *International Shoe*, 326 U. S., at 318 ("the commission of some single or occasional acts of the corporate agent in a state" may sometimes "be deemed sufficient to render the corporation liable to suit" on related claims). See also Brief for Petitioner 24 (acknowledging that "an agency relationship may be sufficient in some circumstances to give rise to *specific* jurisdiction"). It does not inevitably follow, however, that similar reasoning applies to *general* jurisdiction. Cf. *Goodyear*, 564 U. S., at 927 (faulting analysis that "elided the essential difference between case-specific and all-purpose (general) jurisdiction").

mulated this way, the inquiry into importance stacks the deck, for it will always yield a pro-jurisdiction answer: "Anything a corporation does through an independent contractor, subsidiary, or distributor is presumably something that the corporation would do 'by other means' if the independent contractor, subsidiary, or distributor did not exist." 676 F. 3d, at 777 (O'Scannlain, J., dissenting from denial of rehearing en banc).[14] The Ninth Circuit's agency theory thus appears to subject foreign corporations to general jurisdiction whenever they have an in-state subsidiary or affiliate, an outcome that would sweep beyond even the "sprawling view of general jurisdiction" we rejected in *Goodyear*. 564 U. S., at 929.[15]

B

Even if we were to assume that MBUSA is at home in California, and further to assume MBUSA's contacts are imputable to Daimler, there would still be no basis to subject Daimler to general jurisdiction in California, for Daimler's slim contacts with the State hardly render it at home there.[16]

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[14] Indeed, plaintiffs do not defend this aspect of the Ninth Circuit's analysis. See Brief for Respondents 39, n. 18 ("We do not believe that this gloss is particularly helpful.").

[15] The Ninth Circuit's agency analysis also looked to whether the parent enjoys "the right to substantially control" the subsidiary's activities. *Bauman* v. *DaimlerChrysler Corp.*, 644 F. 3d 909, 924 (2011). The Court of Appeals found the requisite "control" demonstrated by the General Distributor Agreement between Daimler and MBUSA, which gives Daimler the right to oversee certain of MBUSA's operations, even though that agreement expressly disavowed the creation of any agency relationship. Thus grounded, the separate inquiry into control hardly curtails the overbreadth of the Ninth Circuit's agency holding.

[16] By addressing this point, JUSTICE SOTOMAYOR asserts, we have strayed from the question on which we granted certiorari to decide an issue not argued below. *Post*, at 146–147. That assertion is doubly flawed. First, the question on which we granted certiorari, as stated in Daimler's petition, is "whether it violates due process for a court to exercise general personal jurisdiction over a foreign corporation based solely on the fact that an indirect corporate subsidiary performs services on behalf of the

Goodyear made clear that only a limited set of affiliations with a forum will render a defendant amenable to all-purpose jurisdiction there. "For an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile; for a corporation, it is an equivalent place, one in which the corporation is fairly regarded as at home." 564 U. S., at 924 (citing Brilmayer et al., A General Look at General Jurisdiction, 66 Texas L. Rev. 721, 728 (1988)). With respect to a corporation, the place of incorporation and principal place of business are "paradig[m] . . . bases for general jurisdiction." *Id.*, at 735. See also Twitchell, 101 Harv. L. Rev., at 633. Those affiliations have the virtue of being unique—that is, each ordinarily indicates only one place—as well as easily ascertainable. Cf. *Hertz Corp.* v. *Friend*, 559 U. S. 77, 94 (2010) ("Simple jurisdictional rules . . . promote greater predictability."). These bases afford plaintiffs recourse to at least one clear and certain forum in which a corporate defendant may be sued on any and all claims.

Goodyear did not hold that a corporation may be subject to general jurisdiction *only* in a forum where it is incorporated or has its principal place of business; it simply typed those places paradigm all-purpose forums. Plaintiffs would have us look beyond the exemplar bases *Goodyear* identified,

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defendant in the forum State." Pet. for Cert. i. That question fairly encompasses an inquiry into whether, in light of *Goodyear*, Daimler can be considered at home in California based on MBUSA's in-state activities. See also this Court's Rule 14.1(a) (a party's statement of the question presented "is deemed to comprise every subsidiary question fairly included therein"). Moreover, both in the Ninth Circuit, see, *e. g.*, Brief for Federation of German Industries et al. as *Amici Curiae* in No. 07–15386 (CA9), p. 3, and in this Court, see, *e. g.*, U. S. Brief 13–18; Brief for Chamber of Commerce of United States of America et al. as *Amici Curiae* 6–23; Brief for Lea Brilmayer as *Amica Curiae* 10–12, *amici* in support of Daimler homed in on the insufficiency of Daimler's California contacts for general jurisdiction purposes. In short, and in light of our pathmarking opinion in *Goodyear*, we perceive no unfairness in deciding today that California is not an all-purpose forum for claims against Daimler.

and approve the exercise of general jurisdiction in every State in which a corporation "engages in a substantial, continuous, and systematic course of business." Brief for Respondents 16–17, and nn. 7–8. That formulation, we hold, is unacceptably grasping.

As noted, see *supra*, at 126–127, the words "continuous and systematic" were used in *International Shoe* to describe instances in which the exercise of *specific* jurisdiction would be appropriate. See 326 U. S., at 317 (jurisdiction can be asserted where a corporation's in-state activities are not only "continuous and systematic, but also give rise to the liabilities sued on").[17] Turning to all-purpose jurisdiction, in contrast, *International Shoe* speaks of "instances in which the continuous corporate operations within a state [are] so substantial and of such a nature as to justify suit . . . *on causes of action arising from dealings entirely distinct from those activities*." *Id.*, at 318 (emphasis added). See also Twitchell, Why We Keep Doing Business With Doing-Business Jurisdiction, 2001 U. Chi. Legal Forum 171, 184 (*International Shoe* "is clearly not saying that dispute-blind jurisdiction exists whenever 'continuous and systematic' contacts are found.").[18] Accordingly, the inquiry under *Goodyear* is

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[17] *International Shoe* also recognized, as noted above, see *supra*, at 126–127, that "some single or occasional acts of the corporate agent in a state . . . , because of their nature and quality and the circumstances of their commission, may be deemed sufficient to render the corporation liable to suit." 326 U. S., at 318.

[18] Plaintiffs emphasize two decisions, *Barrow S. S. Co.* v. *Kane*, 170 U. S. 100 (1898), and *Tauza* v. *Susquehanna Coal Co.*, 220 N. Y. 259, 115 N. E. 915 (1917) (Cardozo, J.), both cited in *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437 (1952), just after the statement that a corporation's continuous operations in-state may suffice to establish general jurisdiction. *Id.*, at 446, and n. 6. See also *International Shoe*, 326 U. S., at 318 (citing *Tauza*). *Barrow* and *Tauza* indeed upheld the exercise of general jurisdiction based on the presence of a local office, which signaled that the corporation was "doing business" in the forum. *Perkins'* unadorned citations to these cases, both decided in the era dominated by *Pennoyer*'s territorial thinking, see *supra*, at 125–126, should not attract heavy reliance today. See generally Feder, *Goodyear*, "Home," and the Uncertain

not whether a foreign corporation's in-forum contacts can be said to be in some sense "continuous and systematic," it is whether that corporation's "affiliations with the State are so 'continuous and systematic' as to render [it] essentially at home in the forum State." 564 U. S., at 919.[19]

Here, neither Daimler nor MBUSA is incorporated in California, nor does either entity have its principal place of business there. If Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California, the same global reach would presumably be available in every other State in which MBUSA's sales are sizable. Such exorbitant exercises of all-purpose jurisdiction would scarcely permit out-of-state defendants "to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit." *Burger King Corp.*, 471 U. S., at 472 (internal quotation marks omitted).

It was therefore error for the Ninth Circuit to conclude that Daimler, even with MBUSA's contacts attributed to it, was at home in California, and hence subject to suit there on claims by foreign plaintiffs having nothing to do with anything that occurred or had its principal impact in California.[20]

Future of Doing Business Jurisdiction, 63 S. C. L. Rev. 671 (2012) (questioning whether "doing business" should persist as a basis for general jurisdiction).

[19] We do not foreclose the possibility that in an exceptional case, see, *e. g.*, *Perkins*, described *supra*, at 129–131, and n. 8, a corporation's operations in a forum other than its formal place of incorporation or principal place of business may be so substantial and of such a nature as to render the corporation at home in that State. But this case presents no occasion to explore that question, because Daimler's activities in California plainly do not approach that level. It is one thing to hold a corporation answerable for operations in the forum State, see *supra*, at 126–127, quite another to expose it to suit on claims having no connection whatever to the forum State.

[20] To clarify in light of JUSTICE SOTOMAYOR's opinion concurring in the judgment, the general jurisdiction inquiry does not "focu[s] solely on the magnitude of the defendant's in-state contacts." *Post*, at 149. General ju-

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Finally, the transnational context of this dispute bears attention. The Court of Appeals emphasized, as supportive of

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risdiction instead calls for an appraisal of a corporation's activities in their entirety, nationwide and worldwide. A corporation that operates in many places can scarcely be deemed at home in all of them. Otherwise, "at home" would be synonymous with "doing business" tests framed before specific jurisdiction evolved in the United States. See von Mehren & Trautman 1142–1144. Nothing in *International Shoe* and its progeny suggests that "a particular quantum of local activity" should give a State authority over a "far larger quantum of . . . activity" having no connection to any in-state activity. Feder, *supra*, at 694.

JUSTICE SOTOMAYOR would reach the same result, but for a different reason. Rather than concluding that Daimler is not at home in California, JUSTICE SOTOMAYOR would hold that the exercise of general jurisdiction over Daimler would be unreasonable "in light of the unique circumstances of this case." *Post*, at 142. In other words, she favors a resolution fit for this day and case only. True, a multipronged reasonableness check was articulated in *Asahi*, 480 U. S., at 113–114, but not as a free-floating test. Instead, the check was to be essayed when *specific* jurisdiction is at issue. See also *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 476–478 (1985). First, a court is to determine whether the connection between the forum and the episode-in-suit could justify the exercise of specific jurisdiction. Then, in a second step, the court is to consider several additional factors to assess the reasonableness of entertaining the case. When a corporation is genuinely at home in the forum State, however, any second-step inquiry would be superfluous.

JUSTICE SOTOMAYOR fears that our holding will "lead to greater unpredictability by radically expanding the scope of jurisdictional discovery." *Post*, at 155. But it is hard to see why much in the way of discovery would be needed to determine where a corporation is at home. JUSTICE SOTOMAYOR's proposal to import *Asahi*'s "reasonableness" check into the general jurisdiction determination, on the other hand, would indeed compound the jurisdictional inquiry. The reasonableness factors identified in *Asahi* include "the burden on the defendant," "the interests of the forum State," "the plaintiff's interest in obtaining relief," "the interstate judicial system's interest in obtaining the most efficient resolution of controversies," "the shared interest of the several States in furthering fundamental substantive social policies," and, in the international context, "the procedural and substantive policies of other *nations* whose interests are affected by the assertion of jurisdiction." 480 U. S., at 113–115 (some internal quota-

the exercise of general jurisdiction, plaintiffs' assertion of claims under the Alien Tort Statute (ATS), 28 U. S. C. § 1350, and the Torture Victim Protection Act of 1991 (TVPA), 106 Stat. 73, note following 28 U. S. C. § 1350. See 644 F. 3d, at 927 ("American federal courts, be they in California or any other state, have a strong interest in adjudicating and redressing international human rights abuses."). Recent decisions of this Court, however, have rendered plaintiffs' ATS and TVPA claims infirm. See *Kiobel* v. *Royal Dutch Petroleum Co.*, 569 U. S. 108, 124 (2013) (presumption against extraterritorial application controls claims under the ATS); *Mohamad* v. *Palestinian Authority*, 566 U. S. 449, 451–452 (2012) (only natural persons are subject to liability under the TVPA).

The Ninth Circuit, moreover, paid little heed to the risks to international comity its expansive view of general jurisdiction posed. Other nations do not share the uninhibited approach to personal jurisdiction advanced by the Court of Appeals in this case. In the European Union, for example, a corporation may generally be sued in the nation in which it is "domiciled," a term defined to refer only to the location of the corporation's "statutory seat," "central administration," or "principal place of business." European Parliament and Council Reg. 1215/2012, Arts. 4(1) and 63(1), 2012 O. J. (L. 351) 7, 18. See also *id.*, Art. 7(5), 2012 O. J. 7 (as to "a dispute *arising out of the operations of a branch, agency or other establishment*," a corporation may be sued "in the courts for the place where the branch, agency or other establishment is situated" (emphasis added)). The Solicitor General informs us, in this regard, that "foreign governments' objections to some domestic courts' expansive views of general jurisdiction have in the past impeded negotiations of international agreements on the reciprocal recognition and

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tion marks omitted). Imposing such a checklist in cases of general jurisdiction would hardly promote the efficient disposition of an issue that should be resolved expeditiously at the outset of litigation.

enforcement of judgments." U. S. Brief 2 (citing Juenger, The American Law of General Jurisdiction, 2001 U. Chi. Legal Forum 141, 161–162). See also U. S. Brief 2 (expressing concern that unpredictable applications of general jurisdiction based on activities of U. S.-based subsidiaries could discourage foreign investors); Brief for Respondents 35 (acknowledging that "doing business" basis for general jurisdiction has led to "international friction"). Considerations of international rapport thus reinforce our determination that subjecting Daimler to the general jurisdiction of courts in California would not accord with the "fair play and substantial justice" due process demands. *International Shoe*, 326 U. S., at 316 (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

* * *

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

Reversed.

JUSTICE SOTOMAYOR, concurring in the judgment.

I agree with the Court's conclusion that the Due Process Clause prohibits the exercise of personal jurisdiction over Daimler in light of the unique circumstances of this case. I concur only in the judgment, however, because I cannot agree with the path the Court takes to arrive at that result.

The Court acknowledges that Mercedes-Benz USA, LLC (MBUSA), Daimler's wholly owned subsidiary, has considerable contacts with California. It has multiple facilities in the State, including a regional headquarters. Each year, it distributes in California tens of thousands of cars, the sale of which generated billions of dollars in the year this suit was brought. And it provides service and sales support to customers throughout the State. Daimler has conceded that California courts may exercise general jurisdiction over MBUSA on the basis of these contacts, and the Court assumes that MBUSA's contacts may be attributed to Daimler

for the purpose of deciding whether Daimler is also subject to general jurisdiction.

Are these contacts sufficient to permit the exercise of general jurisdiction over Daimler? The Court holds that they are not, for a reason wholly foreign to our due process jurisprudence. The problem, the Court says, is not that Daimler's contacts with California are too few, but that its contacts with other forums are too many. In other words, the Court does not dispute that the presence of multiple offices, the direct distribution of thousands of products accounting for billions of dollars in sales, and continuous interaction with customers throughout a State would be enough to support the exercise of general jurisdiction over some businesses. Daimler is just not one of those businesses, the Court concludes, because its California contacts must be viewed in the context of its extensive "nationwide and worldwide" operations. *Ante,* at 140, n. 20. In recent years, Americans have grown accustomed to the concept of multinational corporations that are supposedly "too big to fail"; today the Court deems Daimler "too big for general jurisdiction."

The Court's conclusion is wrong as a matter of both process and substance. As to process, the Court decides this case on a ground that was neither argued nor passed on below, and that Daimler raised for the first time in a footnote to its brief. Brief for Petitioner 31–32, n. 5. As to substance, the Court's focus on Daimler's operations outside of California ignores the lodestar of our personal jurisdiction jurisprudence: A State may subject a defendant to the burden of suit if the defendant has sufficiently taken advantage of the State's laws and protections through its contacts in the State; whether the defendant has contacts elsewhere is immaterial.

Regrettably, these errors are unforced. The Court can and should decide this case on the far simpler ground that, no matter how extensive Daimler's contacts with California,

that State's exercise of jurisdiction would be unreasonable given that the case involves foreign plaintiffs suing a foreign defendant based on foreign conduct, and given that a more appropriate forum is available. Because I would reverse the judgment below on this ground, I concur in the judgment only.

I

I begin with the point on which the majority and I agree: The Ninth Circuit's decision should be reversed.

Our personal jurisdiction precedents call for a two-part analysis. The contacts prong asks whether the defendant has sufficient contacts with the forum State to support personal jurisdiction; the reasonableness prong asks whether the exercise of jurisdiction would be unreasonable under the circumstances. *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 475–478 (1985). As the majority points out, all of the cases in which we have applied the reasonableness prong have involved specific as opposed to general jurisdiction. *Ante*, at 139, n. 20. Whether the reasonableness prong should apply in the general jurisdiction context is therefore a question we have never decided,[1] and it is one on which I

[1] The Courts of Appeals have uniformly held that the reasonableness prong does in fact apply in the general jurisdiction context. See *Metropolitan Life Ins. Co.* v. *Robertson-Ceco Corp.*, 84 F. 3d 560, 573 (CA2 1996) ("[E]very circuit that has considered the question has held, implicitly or explicitly, that the reasonableness inquiry is applicable to *all* questions of personal jurisdiction, general or specific"); see also, *e. g.*, *Lakin* v. *Prudential Securities, Inc.*, 348 F. 3d 704, 713 (CA8 2003); *Base Metal Trading, Ltd.* v. *OJSC "Novokuznetsky Aluminum Factory,"* 283 F. 3d 208, 213–214 (CA4 2002); *Trierwelier* v. *Croxton & Trench Holding Corp.*, 90 F. 3d 1523, 1533 (CA10 1996); *Amoco Egypt Oil Co.* v. *Leonis Navigation Co.*, 1 F. 3d 848, 851, n. 2 (CA9 1993); *Donatelli* v. *National Hockey League*, 893 F. 2d 459, 465 (CA1 1990); *Bearry* v. *Beech Aircraft Corp.*, 818 F. 2d 370, 377 (CA5 1987). Without the benefit of a single page of briefing on the issue, the majority casually adds each of these cases to the mounting list of decisions jettisoned as a consequence of today's ruling. See *ante*, at 139, n. 20.

can appreciate the arguments on both sides. But it would be imprudent to decide that question in this case given that respondents have failed to argue against the application of the reasonableness prong during the entire 8-year history of this litigation. See Brief for Respondents 11, 12, 13, 16 (conceding application of the reasonableness inquiry); Plaintiffs' Opposition to Defendant's Motion To Quash Service of Process and To Dismiss for Lack of Personal Jurisdiction in No. 04–00194–RMW (ND Cal., May 16, 2005), pp. 14–23 (same). As a result, I would decide this case under the reasonableness prong without foreclosing future consideration of whether that prong should be limited to the specific jurisdiction context.[2]

We identified the factors that bear on reasonableness in *Asahi Metal Industry Co.* v. *Superior Court of Cal., Solano Cty.*, 480 U. S. 102 (1987): "the burden on the defendant, the interests of the forum State," "the plaintiff's interest in obtaining relief" in the forum State, and the interests of other sovereigns in resolving the dispute. *Id.*, at 113–114. We held in *Asahi* that it would be "unreasonable and unfair" for a California court to exercise jurisdiction over a claim between a Taiwanese plaintiff and a Japanese defendant that arose out of a transaction in Taiwan, particularly where the Taiwanese plaintiff had not shown that it would be more convenient to litigate in California than in Taiwan or Japan. *Id.*, at 114.

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[2] While our decisions rejecting the exercise of personal jurisdiction have typically done so under the minimum-contacts prong, we have never required that prong to be decided first. See *Asahi Metal Industry Co.* v. *Superior Court of Cal., Solano Cty.*, 480 U. S. 102, 121 (1987) (Stevens, J., concurring in part and concurring in judgment) (rejecting personal jurisdiction under the reasonableness prong and declining to consider the minimum-contacts prong because doing so would not be "necessary"). And although the majority frets that deciding this case on the reasonableness ground would be "a resolution fit for this day and case only," *ante*, at 140, n. 20, I do not understand our constitutional duty to require otherwise.

The same considerations resolve this case. It involves Argentine plaintiffs suing a German defendant for conduct that took place in Argentina. Like the plaintiffs in *Asahi*, respondents have failed to show that it would be more convenient to litigate in California than in Germany, a sovereign with a far greater interest in resolving the dispute. *Asahi* thus makes clear that it would be unreasonable for a court in California to subject Daimler to its jurisdiction.

II

The majority evidently agrees that, if the reasonableness prong were to apply, it would be unreasonable for California courts to exercise jurisdiction over Daimler in this case. See *ante*, at 139 (noting that it would be "exorbitant" for California courts to exercise general jurisdiction over Daimler, a German defendant, in this "Argentina-rooted case" brought by "foreign plaintiffs"). But instead of resolving the case on this uncontroversial basis, the majority reaches out to decide it on a ground neither argued nor decided below.[3]

We generally do not pass on arguments that lower courts have not addressed. See, *e. g.*, *Cutter* v. *Wilkinson*, 544 U. S. 709, 718, n. 7 (2005). After all, "we are a court of review, not of first view." *Ibid.* This principle carries even greater force where the argument at issue was never pressed

[3] The majority appears to suggest that Daimler may have presented the argument in its petition for rehearing en banc before the Ninth Circuit. See *ante*, at 125 (stating that Daimler "urg[ed] that the exercise of personal jurisdiction . . . could not be reconciled with this Court's decision in *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915 (2011)"). But Daimler's petition for rehearing did not argue what the Court holds today. The Court holds that Daimler's California contacts would be insufficient for general jurisdiction even assuming that MBUSA's contacts may be attributed to Daimler. Daimler's rehearing petition made a distinct argument—that attribution of MBUSA's contacts should not be permitted under an " 'agency' theory" because doing so would "rais[e] significant constitutional concerns" under *Goodyear*. Petition for Rehearing or Rehearing En Banc in No. 07–15386 (CA9), p. 9.

below. See *Glover* v. *United States*, 531 U. S. 198, 205 (2001). Yet the majority disregards this principle, basing its decision on an argument raised for the first time in a footnote of Daimler's merits brief before this Court. Brief for Petitioner 32, n. 5 ("Even if MBUSA were a division of Daimler AG rather than a separate corporation, Daimler AG would still . . . not be 'at home' in California").

The majority's decision is troubling all the more because the parties were not asked to brief this issue. We granted certiorari on the question "whether it violates due process for a court to exercise general personal jurisdiction over a foreign corporation based solely on the fact that an indirect corporate subsidiary performs services on behalf of the defendant in the forum State." Pet. for Cert. i. At no point in Daimler's petition for certiorari did the company contend that, even if this attribution question were decided against it, its contacts in California would still be insufficient to support general jurisdiction. The parties' merits briefs accordingly focused on the attribution-of-contacts question, addressing the reasonableness inquiry (which had been litigated and decided below) in most of the space that remained. See Brief for Petitioner 17–37, 37–43; Brief for Respondents 18–47, 47–59.

In bypassing the question on which we granted certiorari to decide an issue not litigated below, the Court leaves respondents "without an unclouded opportunity to air the issue the Court today decides against them," *Comcast Corp.* v. *Behrend*, 569 U. S. 27, 40 (2013) (GINSBURG and BREYER, JJ., dissenting). Doing so "does 'not reflect well on the processes of the Court.'" *Ibid.* (quoting *Redrup* v. *New York*, 386 U. S. 767, 772 (1967) (Harlan, J., dissenting)). "And by resolving a complex and fact-intensive question without the benefit of full briefing, the Court invites the error into which it has fallen." 569 U. S., at 40.

The relevant facts are undeveloped because Daimler conceded at the start of this litigation that MBUSA is subject

to general jurisdiction based on its California contacts. We therefore do not know the full extent of those contacts, though what little we do know suggests that Daimler was wise to concede what it did. MBUSA imports more than 200,000 vehicles into the United States and distributes many of them to independent dealerships in California, where they are sold. Declaration of Dr. Peter Waskönig in *Bauman* v. *DaimlerChrysler Corp.*, No. 04–00194–RMW (ND Cal.), ¶ 10, p. 2. MBUSA's California sales account for 2.4% of Daimler's worldwide sales, which were $192 billion in 2004.[4] And 2.4% of $192 billion is $4.6 billion, a considerable sum by any measure. MBUSA also has multiple offices and facilities in California, including a regional headquarters.

But the record does not answer a number of other important questions. Are any of Daimler's key files maintained in MBUSA's California offices? How many employees work in those offices? Do those employees make important strategic decisions or oversee in any manner Daimler's activities? These questions could well affect whether Daimler is subject to general jurisdiction. After all, this Court upheld the exercise of general jurisdiction in *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437, 447–448 (1952)—which the majority refers to as a "textbook case" of general jurisdiction, *ante*, at 129—on the basis that the foreign defendant maintained an office in Ohio, kept corporate files there, and oversaw the company's activities from the State. California-based MBUSA employees may well have done similar things on Daimler's behalf.[5] But because the Court

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[4] See DaimlerChrysler, Innovations for Our Customers: Annual Report 2004, p. 22, http://www.daimler.com/Projects/c2c/channel/documents/1364377_2004_DaimlerChrysler_Annual_Report.pdf (as visited on Jan. 8, 2014, and available in Clerk of Court's case file).

[5] To be sure, many of Daimler's key management decisions are undoubtedly made by employees outside California. But the same was true in *Perkins*. See *Perkins* v. *Benguet Consol. Min. Co.*, 88 Ohio App. 118, 124, 95 N. E. 2d 5, 8 (1950) (*per curiam*) (describing management decisions

decides the issue without a developed record, we will never know.

III

While the majority's decisional process is problematic enough, I fear that process leads it to an even more troubling result.

A

Until today, our precedents had established a straightforward test for general jurisdiction: Does the defendant have "continuous corporate operations within a state" that are "so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities"? *International Shoe Co.* v. *Washington*, 326 U. S. 310, 318 (1945); see also *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 416 (1984) (asking whether defendant had "continuous and systematic general business contacts").[6] In every case where we have applied this test, we have focused solely on the magnitude of the defendant's in-state contacts, not the relative magnitude of those contacts in comparison to the defendant's contacts with other States.

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made by the company's chief of staff in Manila and a purchasing agent in California); see also n. 8, *infra*.

[6] While *Helicopteros* formulated the general jurisdiction inquiry as asking whether a foreign defendant possesses "continuous and systematic general business contacts," 466 U. S., at 416, the majority correctly notes, *ante*, at 138, that *International Shoe* used the phrase "continuous and systematic" in the context of discussing specific jurisdiction, 326 U. S., at 317. But the majority recognizes that *International Shoe* separately described the type of contacts needed for general jurisdiction as "continuous corporate operations" that are "so substantial" as to justify suit on unrelated causes of action. *Id.*, at 318. It is unclear why our precedents departed from *International Shoe*'s "continuous and substantial" formulation in favor of the "continuous and systematic" formulation, but the majority does not contend—nor do I perceive—that there is a material difference between the two.

In *Perkins*, for example, we found an Ohio court's exercise of general jurisdiction permissible where the president of the foreign defendant "maintained an office," "drew and distributed . . . salary checks," used "two active bank accounts," "supervised . . . the rehabilitation of the corporation's properties in the Philippines," and held "directors' meetings" in Ohio. 342 U. S., at 447–448. At no point did we attempt to catalog the company's contacts in forums other than Ohio or to compare them with its Ohio contacts. If anything, we intimated that the defendant's Ohio contacts were *not* substantial in comparison to its contacts elsewhere. See *id.*, at 438 (noting that the defendant's Ohio contacts, while "continuous and systematic," were but a "limited . . . part of its general business").[7]

We engaged in the same inquiry in *Helicopteros*. There, we held that a Colombian corporation was not subject to general jurisdiction in Texas simply because it occasionally sent its employees into the State, accepted checks drawn on a Texas bank, and purchased equipment and services from a

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[7] The majority suggests that I misinterpret language in *Perkins* that I do not even cite. *Ante*, at 130, n. 8. The majority is quite correct that it has found a sentence in *Perkins* that does not address whether most of the Philippine corporation's activities took place outside of Ohio. See *ante*, at 130, n. 8 (noting that *Perkins* described the company's "wartime activities" as "necessarily limited," 342 U. S., at 448). That is why I did not mention it. I instead rely on a sentence in *Perkins*' opening paragraph: "The [Philippine] corporation has been carrying on in Ohio a continuous and systematic, but limited, part of its general business." *Id.*, at 438. That sentence obviously does convey that most of the corporation's activities occurred in "places other than Ohio," *ante*, at 130, n. 8. This is not surprising given that the company's Ohio contacts involved a single officer working from a home office, while its non-Ohio contacts included significant mining properties and machinery operated throughout the Philippines, Philippine employees (including a chief of staff), a purchasing agent based in California, and board of directors meetings held in Washington, New York, and San Francisco. *Perkins*, 88 Ohio App., at 123–124, 95 N. E. 2d, at 8; see also n. 8, *infra*.

Texas company. In no sense did our analysis turn on the extent of the company's operations beyond Texas.

Most recently, in *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915 (2011), our analysis again focused on the defendant's in-state contacts. *Goodyear* involved a suit against foreign tire manufacturers by North Carolina residents whose children had died in a bus accident in France. We held that North Carolina courts could not exercise general jurisdiction over the foreign defendants. Just as in *Perkins* and *Helicopteros*, our opinion in *Goodyear* did not identify the defendants' contacts outside of the forum State, but focused instead on the defendants' lack of offices, employees, direct sales, and business operations within the State.

This approach follows from the touchstone principle of due process in this field, the concept of reciprocal fairness. When a corporation chooses to invoke the benefits and protections of a State in which it operates, the State acquires the authority to subject the company to suit in its courts. See *International Shoe*, 326 U. S., at 319 ("[T]o the extent that a corporation exercises the privilege of conducting activities within a state, it enjoys the benefits and protection of the laws of that state" such that an "obligatio[n] arise[s]" to respond there to suit); *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U. S. 873, 880–881 (2011) (plurality opinion) (same principle for general jurisdiction). The majority's focus on the extent of a corporate defendant's out-of-forum contacts is untethered from this rationale. After all, the degree to which a company intentionally benefits from a forum State depends on its interactions with that State, not its interactions elsewhere. An article on which the majority relies (and on which *Goodyear* relied as well, 564 U. S., at 919) expresses the point well: "We should not treat defendants as less amenable to suit merely because they carry on more substantial business in other states; . . . the amount of activity elsewhere seems virtually irrelevant to . . . the impo-

sition of general jurisdiction over a defendant." Brilmayer et al., A General Look at General Jurisdiction, 66 Texas L. Rev. 721, 742 (1988).

Had the majority applied our settled approach, it would have had little trouble concluding that Daimler's California contacts rise to the requisite level, given the majority's assumption that MBUSA's contacts may be attributed to Daimler and given Daimler's concession that those contacts render MBUSA "at home" in California. Our cases have long stated the rule that a defendant's contacts with a forum State must be continuous, substantial, and systematic in order for the defendant to be subject to that State's general jurisdiction. See *Perkins*, 342 U. S., at 446. We offered additional guidance in *Goodyear*, adding the phrase "essentially at home" to our prior formulation of the rule. 564 U. S., at 919 (a State may exercise general jurisdiction where a defendant's "affiliations with the State are so 'continuous and systematic' as to render [the defendant] essentially at home in the forum State"). We used the phrase "at home" to signify that in order for an out-of-state defendant to be subject to general jurisdiction, its continuous and substantial contacts with a forum State must be akin to those of a local enterprise that actually is "at home" in the State. See Brilmayer, 66 Texas L. Rev., at 742.[8]

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[8] The majority views the phrase "at home" as serving a different purpose—that of requiring a comparison between a defendant's in-state and out-of-state contacts. *Ante*, at 140, n. 20. That cannot be the correct understanding though, because among other things it would cast grave doubt on *Perkins*—a case that *Goodyear* pointed to as an exemplar of general jurisdiction, 564 U. S., at 927–928. For if *Perkins* had applied the majority's newly minted proportionality test, it would have come out the other way.

The majority apparently thinks that the Philippine corporate defendant in *Perkins* did not have meaningful operations in places other than Ohio. See *ante*, at 129–130, and n. 8. But one cannot get past the second sentence of *Perkins* before realizing that is wrong. That sentence reads: "The cor-

Under this standard, Daimler's concession that MBUSA is subject to general jurisdiction in California (a concession the Court accepts, *ante*, at 134, 136) should be dispositive. For if MBUSA's California contacts are so substantial and the resulting benefits to MBUSA so significant as to make MBUSA "at home" in California, the same must be true of Daimler when MBUSA's contacts and benefits are viewed as its own. Indeed, until a footnote in its brief before this Court, even Daimler did not dispute this conclusion for eight years of the litigation.

B

The majority today concludes otherwise. Referring to the "continuous and systematic" contacts inquiry that has

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poration has been carrying on in Ohio a continuous and systematic, but limited, part of its general business." 342 U. S., at 438. Indeed, the facts of the case set forth by the Ohio Court of Appeals show just how "limited" the company's Ohio contacts—which included a single officer keeping files and managing affairs from his Ohio home office—were in comparison with its "general business" operations elsewhere. By the time the suit was commenced, the company had resumed its considerable mining operations in the Philippines, "'rebuilding its properties'" there and purchasing "'machinery, supplies and equipment.'" 88 Ohio App., at 123–124, 95 N. E. 2d, at 8. Moreover, the company employed key managers in other forums, including a purchasing agent in San Francisco and a chief of staff in the Philippines. *Id.*, at 124, 95 N. E. 2d, at 8. The San Francisco purchasing agent negotiated the purchase of the company's machinery and supplies "'on the direction of the Company's Chief of Staff in Manila,'" *ibid.*, a fact that squarely refutes the majority's assertion that "[a]ll of Benguet's activities were directed by the company's president from within Ohio," *ante*, at 130, n. 8. And the vast majority of the company's board of directors meetings took place outside Ohio, in locations such as Washington, New York, and San Francisco. 88 Ohio App., at 125, 95 N. E. 2d, at 8.

In light of these facts, it is all but impossible to reconcile the result in *Perkins* with the proportionality test the majority announces today. *Goodyear*'s use of the phrase "at home" is thus better understood to require the same general jurisdiction inquiry that *Perkins* required: An out-of-state business must have the kind of continuous and substantial in-state presence that a parallel local company would have.

been taught to generations of first-year law students as "unacceptably grasping," *ante*, at 138, the majority announces the new rule that in order for a foreign defendant to be subject to general jurisdiction, it must not only possess continuous and systematic contacts with a forum State, but those contacts must also surpass some unspecified level when viewed in comparison to the company's "nationwide and worldwide" activities. *Ante*, at 140, n. 20.[9]

Neither of the majority's two rationales for this proportionality requirement is persuasive. First, the majority suggests that its approach is necessary for the sake of predictability. Permitting general jurisdiction in every State where a corporation has continuous and substantial contacts, the majority asserts, would "scarcely permit out-of-state defendants 'to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit.'" *Ante*, at 139 (quoting *Burger King Corp.*, 471 U. S., at 472). But there is nothing unpredictable about a rule that instructs multinational corporations that if they engage in continuous and substantial contacts with more than one State, they will be subject to general jurisdiction in each one. The majority may not favor that rule as a matter of policy, but such disagreement does not render an otherwise routine test unpredictable.

Nor is the majority's proportionality inquiry any more predictable than the approach it rejects. If anything, the ma-

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[9] I accept at face value the majority's declaration that general jurisdiction is not limited to a corporation's place of incorporation and principal place of business because "a corporation's operations in a forum other than its formal place of incorporation or principal place of business may be so substantial and of such a nature as to render the corporation at home in that State." *Ante*, at 139, n. 19; see also *ante*, at 137. Were that not so, our analysis of the defendants' in-state contacts in *Perkins* v. *Benguet Consol. Mining Co.*, 342 U. S. 437 (1952), *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408 (1984), and *Goodyear* would have been irrelevant, as none of the defendants in those cases was sued in its place of incorporation or principal place of business.

jority's approach injects an additional layer of uncertainty because a corporate defendant must now try to foretell a court's analysis as to both the sufficiency of its contacts with the forum State itself, as well as the relative sufficiency of those contacts in light of the company's operations elsewhere. Moreover, the majority does not even try to explain just how extensive the company's in-state contacts must be in the context of its global operations in order for general jurisdiction to be proper.

The majority's approach will also lead to greater unpredictability by radically expanding the scope of jurisdictional discovery. Rather than ascertaining the extent of a corporate defendant's forum-state contacts alone, courts will now have to identify the extent of a company's contacts in every other forum where it does business in order to compare them against the company's in-state contacts. That considerable burden runs headlong into the majority's recitation of the familiar principle that "'[s]imple jurisdictional rules . . . promote greater predictability.'" *Ante*, at 137 (quoting *Hertz Corp.* v. *Friend*, 559 U. S. 77, 94 (2010)).

Absent the predictability rationale, the majority's sole remaining justification for its proportionality approach is its unadorned concern for the consequences. "If Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California," the majority laments, "the same global reach would presumably be available in every other State in which MBUSA's sales are sizable." *Ante*, at 139.

The majority characterizes this result as "exorbitant," *ibid.*, but in reality it is an inevitable consequence of the rule of due process we set forth nearly 70 years ago, that there are "instances in which [a company's] continuous corporate operations within a state" are "so substantial and of such a nature as to justify suit against it on causes of action arising from dealings entirely distinct from those activities," *International Shoe*, 326 U. S., at 318. In the era of *International*

Shoe, it was rare for a corporation to have such substantial nationwide contacts that it would be subject to general jurisdiction in a large number of States. Today, that circumstance is less rare. But that is as it should be. What has changed since *International Shoe* is not the due process principle of fundamental fairness but rather the nature of the global economy. Just as it was fair to say in the 1940's that an out-of-state company could enjoy the benefits of a forum State enough to make it "essentially at home" in the State, it is fair to say today that a multinational conglomerate can enjoy such extensive benefits in multiple forum States that it is "essentially at home" in each one.

In any event, to the extent the majority is concerned with the modern-day consequences of *International Shoe*'s conception of personal jurisdiction, there remain other judicial doctrines available to mitigate any resulting unfairness to large corporate defendants. Here, for instance, the reasonableness prong may afford petitioner relief. See *supra*, at 144–146. In other cases, a defendant can assert the doctrine of *forum non conveniens* if a given State is a highly inconvenient place to litigate a dispute. See *Gulf Oil Corp.* v. *Gilbert*, 330 U. S. 501, 508–509 (1947). In still other cases, the federal change of venue statute can provide protection. See 28 U. S. C. § 1404(a) (permitting transfers to other districts "[f]or the convenience of parties and witnesses" and "in the interests of justice"). And to the degree that the majority worries these doctrines are not enough to protect the economic interests of multinational businesses (or that our longstanding approach to general jurisdiction poses "risks to international comity," *ante*, at 141), the task of weighing those policy concerns belongs ultimately to legislators, who may amend state and federal long-arm statutes in accordance with the democratic process. Unfortunately, the majority short circuits that process by enshrining today's narrow rule of general jurisdiction as a matter of constitutional law.

C

The majority's concern for the consequences of its decision should have led it the other way, because the rule that it adopts will produce deep injustice in at least four respects.

First, the majority's approach unduly curtails the States' sovereign authority to adjudicate disputes against corporate defendants who have engaged in continuous and substantial business operations within their boundaries.[10] The majority does not dispute that a State can exercise general jurisdiction where a corporate defendant has its corporate headquarters, and hence its principal place of business within the State. Cf. *Hertz Corp.*, 559 U. S., at 93. Yet it never explains why the State should lose that power when, as is increasingly common, a corporation "divide[s] [its] command and coordinating functions among officers who work at several different locations." *Id.*, at 95–96. Suppose a company divides its management functions equally among three offices in different States, with one office nominally deemed the company's corporate headquarters. If the State where the headquarters is located can exercise general jurisdiction, why should the other two States be constitutionally forbidden to do the same? Indeed, under the majority's approach, the result would be unchanged even if the company has substantial operations within the latter two States (and even if the company has no sales or other business operations in the first State). Put simply, the majority's rule defines the Due Process Clause so narrowly and arbitrarily as to contravene the States' sovereign prerogative to subject to judgment defendants who have manifested an unqualified "inten-

[10] States will of course continue to exercise specific jurisdiction in many cases, but we have never held that to be the outer limit of the States' authority under the Due Process Clause. That is because the two forms of jurisdiction address different concerns. Whereas specific jurisdiction focuses on the relationship between a defendant's challenged conduct and the forum State, general jurisdiction focuses on the defendant's substantial presence in the State irrespective of the location of the challenged conduct.

tion to benefit from and thus an intention to submit to the[ir] laws," *J. McIntyre*, 564 U. S., at 88 (plurality opinion).

Second, the proportionality approach will treat small businesses unfairly in comparison to national and multinational conglomerates. Whereas a larger company will often be immunized from general jurisdiction in a State on account of its extensive contacts outside the forum, a small business will not be. For instance, the majority holds today that Daimler is not subject to general jurisdiction in California despite its multiple offices, continuous operations, and billions of dollars' worth of sales there. But imagine a small business that manufactures luxury vehicles principally targeting the California market and that has substantially all of its sales and operations in the State—even though those sales and operations may amount to one-thousandth of Daimler's. Under the majority's rule, that small business will be subject to suit in California on any cause of action involving any of its activities anywhere in the world, while its far more pervasive competitor, Daimler, will not be. That will be so even if the small business incorporates and sets up its headquarters elsewhere (as Daimler does), since the small business' California sales and operations would still predominate when "apprais[ed]" in proportion to its minimal "nationwide and worldwide" operations, *ante*, at 140, n. 20.

Third, the majority's approach creates the incongruous result that an individual defendant whose only contact with a forum State is a one-time visit will be subject to general jurisdiction if served with process during that visit, *Burnham* v. *Superior Court of Cal., County of Marin*, 495 U. S. 604 (1990), but a large corporation that owns property, employs workers, and does billions of dollars' worth of business in the State will not be, simply because the corporation has similar contacts elsewhere (though the visiting individual surely does as well).

Finally, it should be obvious that the ultimate effect of the majority's approach will be to shift the risk of loss from multinational corporations to the individuals harmed by

their actions. Under the majority's rule, for example, a parent whose child is maimed due to the negligence of a foreign hotel owned by a multinational conglomerate will be unable to hold the hotel to account in a single U. S. court, even if the hotel company has a massive presence in multiple States. See, *e. g.*, *Meier* v. *Sun Int'l Hotels, Ltd.*, 288 F. 3d 1264 (CA11 2002).[11] Similarly, a U. S. business that enters into a contract in a foreign country to sell its products to a multinational company there may be unable to seek relief in any U. S. court if the multinational company breaches the contract, even if that company has considerable operations in numerous U. S. forums. See, *e. g.*, *Walpex Trading Co.* v. *Yacimientos Petroliferos Fiscales Bolivianos*, 712 F. Supp. 383 (SDNY 1989).[12] Indeed, the majority's approach would preclude the plaintiffs in these examples from seeking recourse anywhere in the United States even if no other judicial system was available to provide relief. I cannot agree with the majority's conclusion that the Due Process Clause requires these results.

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The Court rules against respondents today on a ground that no court has considered in the history of this case, that

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[11] See also, *e. g.*, *Woods* v. *Nova Companies Belize Ltd.*, 739 So. 2d 617, 620–621 (Fla. App. 1999) (estate of decedent killed in an overseas plane crash permitted to sue responsible Belizean corporate defendant in Florida courts, rather than Belizean courts, based on defendant's continuous and systematic business contacts in Florida).

[12] The present case and the examples posited involve foreign corporate defendants, but the principle announced by the majority would apply equally to preclude general jurisdiction over a U. S. company that is incorporated and has its principal place of business in another U. S. State. Under the majority's rule, for example, a General Motors autoworker who retires to Florida would be unable to sue GM in that State for disabilities that develop from the retiree's labor at a Michigan parts plant, even though GM undertakes considerable business operations in Florida. See Twitchell, The Myth of General Jurisdiction, 101 Harv. L. Rev. 610, 670 (1988).

this Court did not grant certiorari to decide, and that Daimler raised only in a footnote of its brief. In doing so, the Court adopts a new rule of constitutional law that is unmoored from decades of precedent. Because I would reverse the Ninth Circuit's decision on the narrower ground that the exercise of jurisdiction over Daimler would be unreasonable in any event, I respectfully concur in the judgment only.

Syllabus

MISSISSIPPI EX REL. HOOD, ATTORNEY GENERAL *v.* AU OPTRONICS CORP. ET AL.

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

No. 12–1036. Argued November 6, 2013—Decided January 14, 2014

Congress enacted the Class Action Fairness Act of 2005 (CAFA) to lower diversity jurisdiction requirements in class actions and, as relevant here, in mass actions, *i. e.*, civil actions "in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact," 28 U. S. C. § 1332(d)(11)(B)(i). Petitioner Mississippi sued respondent liquid crystal display (LCD) manufacturers in state court, alleging violations of state law and seeking, *inter alia*, restitution for LCD purchases made by itself and its citizens. Respondents sought to remove the case to federal court. The District Court held that the suit qualified as a mass action under § 1332(d)(11)(B)(i), but remanded the suit to state court on the ground that it fell within CAFA's "general public" exception, § 1332(d)(11)(B)(ii)(III). The Fifth Circuit reversed, agreeing with the District Court that the suit was a mass action but finding the general public exception inapplicable.

Held: Because Mississippi is the only named plaintiff, this suit does not constitute a mass action under CAFA. Pp. 168–176.

(a) Contrary to respondents' argument, CAFA's "100 or more persons" phrase does not encompass unnamed persons who are real parties in interest to claims brought by named plaintiffs. Congress knew how to draft language to that effect when it intended such a meaning, see, *e. g.*, §§ 1332(d)(5)(B), (d)(1)(D). That it did not do so in the mass action provision indicates that Congress did not want the provision's numerosity requirement to be satisfied by counting unnamed individuals who possess an interest in the suit.

Respondents' understanding also cannot be reconciled with the fact that the "100 or more persons" are not unspecified individuals with no participation in the suit but are the "plaintiffs" subsequently referred to in the provision, *i. e.*, the very parties proposing to join their claims in a single trial. This is evident in two key ways. First, CAFA uses "persons" and "plaintiffs" the same way they are used in Federal Rule of Civil Procedure 20, which refers to "persons" as individuals who are proposing to join as "plaintiffs" in a single action. Second, it is difficult to imagine how the "claims of 100 or more" unnamed individuals could

be "proposed to be tried jointly on the ground that the . . . claims" of some completely different group of named plaintiffs "involve common questions of law or fact."

Construing "plaintiffs" to include both named and unnamed real parties in interest would stretch the meaning of "plaintiff" beyond recognition. A "plaintiff" is commonly understood to be a party who brings a civil suit in a court of law, not anyone, named or unnamed, whom a suit may benefit. Moreover, respondents' definition would also have to apply to the mass action provision's subsequent reference to "plaintiffs" in the phrase "jurisdiction shall exist only over those plaintiffs whose claims [exceed $75,000]," § 1332(d)(11)(B)(i). See *Brown* v. *Gardner*, 513 U. S. 115, 118. This would result in an administrative nightmare that Congress could not possibly have intended, see *Griffin* v. *Oceanic Contractors, Inc.*, 458 U. S. 564, 575, where district courts would have to identify hundreds (or in this case, hundreds of thousands) of unnamed parties whose claims are for less than $75,000 and then decide how to dispose of their claims. Pp. 168–173.

(b) Statutory context reinforces this Court's reading of the mass action provision. CAFA provides that once removal occurs, a case shall not be transferred to another court "unless a majority of the plaintiffs in the action request transfer." § 1332(d)(11)(C)(i). If "plaintiffs" included unnamed parties, it would be surpassingly difficult for a court to poll the enormous number of real parties in interest to decide whether an action may be transferred. Moreover, respondents' position that the action here should be removed because it is similar to a class action fails to recognize that the mass action provision functions largely as a backstop to ensure that CAFA's relaxed class-action jurisdictional rules cannot be evaded by a suit that names a host of plaintiffs rather than using the class device. Had Congress wanted CAFA to authorize removal of representative actions brought by States as sole plaintiffs on respondents' theory, it would have done so through the class-action provision, not the mass action provision. Pp. 173–174.

(c) This Court has interpreted the diversity jurisdiction statute to require courts in certain contexts to look behind the pleadings to ensure that parties are not improperly creating or destroying diversity jurisdiction, see, *e. g.*, *Wecker* v. *National Enameling & Stamping Co.*, 204 U. S. 176, 185–186, but Congress did not intend this background inquiry to apply to the mass action provision. First, it could make sense to incorporate the background inquiry into the mass action provision if the inquiry had previously been applied in a similar manner. That is not the case here, however, and so any presumption that Congress wanted to incorporate the inquiry, if it exists at all, would be comparatively weak. Second, even if the background principle had previously been

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applied in this manner, Congress expressly indicated that it did not want the principle to apply to the mass action provision both through the textual indicators described above and by prohibiting defendants from joining unnamed individuals to a lawsuit in order to turn it into a mass action, § 1332(d)(11)(B)(ii)(II). Requiring district courts to identify unnamed persons interested in the suit would run afoul of that intent. Pp. 174–176.

701 F. 3d 796, reversed and remanded.

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

Jonathan Massey argued the cause for petitioner. With him on the briefs were *Jim Hood*, Attorney General of Mississippi, *pro se*, *Geoffrey Morgan*, *Carolyn G. Anderson*, *A. Lee Abraham, Jr.*, and *Preston Rideout*.

Christopher M. Curran argued the cause for respondents. With him on the brief were *Eric Grannon*, *Kristen J. McAhren*, *Ross E. Elfand*, *Robert E. Freitas*, *Jason S. Angell*, *Jessica N. Leal*, *Stephen L. Thomas*, *Charles E. Ross*, *Michael B. Wallace*, *Christopher A. Nedeau*, *Carl L. Blumenstein*, *Stephen B. Kinnaird*, *Kevin C. McCann*, *Sean D. Unger*, *Robert A. Miller*, *P. Ryan Beckett*, *Henry L. Parr, Jr.*, *Robert A. Long*, *Robert D. Wick*, and *John M. Grenfell*.*

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*Briefs of *amici curiae* urging reversal were filed for the State of Illinois et al. by *Lisa Madigan*, Attorney General of Illinois, *Michael A. Scodro*, Solicitor General, *Jane Elinor Notz*, Deputy Solicitor General, and *Clifford W. Berlow*, Assistant Attorney General, and by the Attorneys General for their respective States as follows: *Michael C. Geraghty* of Alaska, *Thomas C. Horne* of Arizona, *Dustin McDaniel* of Arkansas, *Kamala D. Harris* of California, *John W. Suthers* of Colorado, *George Jepsen* of Connecticut, *Joseph R. Biden III* of Delaware, *Pamela Jo Bondi* of Florida, *David M. Louie* of Hawaii, *Lawrence G. Wasden* of Idaho, *Gregory F. Zoeller* of Indiana, *Thomas J. Miller* of Iowa, *Derek Schmidt* of Kansas, *Jack Conway* of Kentucky, *James D. "Buddy" Caldwell* of Louisiana, *Janet T. Mills* of Maine, *Douglas F. Gansler* of Maryland, *Martha Coakley* of Massachusetts, *Bill Schuette* of Michigan, *Lori Swanson* of Minnesota, *Chris Koster* of Missouri, *Timothy C. Fox* of Montana, *Jon Bruning* of Nebraska, *Catherine Cortez Masto* of Nevada, *Joseph A. Foster* of New Hampshire, *Gary K. King* of New Mexico, *Eric T. Schneiderman* of New York, *Roy Cooper* of North Carolina, *Wayne Stenehjem* of North Dakota,

JUSTICE SOTOMAYOR delivered the opinion of the Court.

Under the Class Action Fairness Act of 2005 (CAFA or Act), defendants in civil suits may remove "mass actions" from state to federal court. CAFA defines a "mass action" as "any civil action . . . in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact." 28 U. S. C. § 1332(d)(11)(B)(i). The question presented is whether a suit filed by a State as the sole plaintiff constitutes a "mass action" under CAFA where it includes a claim for restitution based on injuries suffered by the State's citizens. We hold that it does not. According to CAFA's plain text, a "mass action" must involve monetary claims brought by 100 or more persons who propose to try those claims jointly as named plaintiffs. Because the State of Mississippi is the only named plaintiff in the instant action, the case must be remanded to state court.

Michael DeWine of Ohio, *E. Scott Pruitt* of Oklahoma, *Ellen F. Rosenblum* of Oregon, *Kathleen G. Kane* of Pennsylvania, *Peter F. Kilmartin* of Rhode Island, *Alan Wilson* of South Carolina, *Marty J. Jackley* of South Dakota, *Robert E. Cooper, Jr.*, of Tennessee, *Greg Abbott* of Texas, *John E. Swallow* of Utah, *William H. Sorrell* of Vermont, *Kenneth T. Cuccinelli II* of Virginia, *Bob Ferguson* of Washington, *Patrick Morrisey* of West Virginia, *J. B. Van Hollen* of Wisconsin, and *Peter K. Michael* of Wyoming; for the Center for State Enforcement of Antitrust and Consumer Protection Laws, Inc., by *Stephen D. Houck*; and for Public Citizen, Inc., by *Scott L. Nelson* and *Allison M. Zieve*. *Julie Nepveu*, *Michael Schuster*, and *Linda Singer* filed a brief for AARP as *amicus curiae* urging vacatur.

Briefs of *amici curiae* urging affirmance were filed for Allstate Insurance Co. by *Richard L. Fenton* and *Steven M. Levy*; for DRI–The Voice of the Defense Bar by *Mary Massaron Ross* and *Hilary A. Ballentine*; for Pharmaceutical Research and Manufacturers of America et al. by *Noah A. Levine* and *Daniel S. Volchok*; and for the Washington Legal Foundation by *Cory L. Andrews* and *Richard A. Samp*.

Charles J. Cooper, *Howard C. Nielson, Jr.*, and *Quentin Riegel* filed a brief for Access to Courts Initiative, Inc., et al. as *amici curiae*.

I

A

Congress enacted CAFA in order to "amend the procedures that apply to consideration of interstate class actions." 119 Stat. 4. In doing so, Congress recognized that "[c]lass action lawsuits are an important and valuable part of the legal system." CAFA § 2. It was concerned, however, that certain requirements of federal diversity jurisdiction, 28 U. S. C. § 1332, had functioned to "kee[p] cases of national importance" in state courts rather than federal courts. CAFA § 2.

CAFA accordingly loosened the requirements for diversity jurisdiction for two types of cases—"class actions" and "mass actions." The Act defines "class action" to mean "any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure." 28 U. S. C. § 1332(d)(1)(B). And it defines "mass action" to mean "any civil action . . . in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact." § 1332(d)(11)(B)(i).

For class and mass actions, CAFA expanded diversity jurisdiction in two key ways. First, it replaced the ordinary requirement of complete diversity of citizenship among all plaintiffs and defendants, see *State Farm Fire & Casualty Co.* v. *Tashire*, 386 U. S. 523, 530–531 (1967), with a requirement of minimal diversity. Under that requirement, a federal court may exercise jurisdiction over a class action if "any member of a class of plaintiffs is a citizen of a State different from any defendant." § 1332(d)(2)(A). The same rule applies to mass actions. See § 1332(d)(11)(A) ("[A] mass action shall be deemed . . . removable under [§§ 1332(d)(2) through (d)(10)]"). Second, whereas § 1332(a) ordinarily requires each plaintiff's claim to exceed the sum or value of $75,000, see *Exxon Mobil Corp.* v. *Allapattah Services, Inc.*,

545 U. S. 546, 554–555 (2005), CAFA grants federal jurisdiction over class and mass actions in which the aggregate amount in controversy exceeds $5 million. §§ 1332(d)(2), (d)(6), (d)(11)(A). Class and mass actions filed in state court that satisfy CAFA's requirements may be removed to federal court, 28 U. S. C. § 1453, but federal jurisdiction in a mass action, unlike a class action, "shall exist only over those plaintiffs" whose claims individually satisfy the $75,000 amount in controversy requirement, § 1332(d)(11)(B)(i).[1]

B

Respondents manufacture liquid crystal displays, or LCDs. In March 2011, the State of Mississippi sued them in state court, alleging that they had formed an international cartel to restrict competition and raise prices in the LCD market. The State claimed that these actions violated two Mississippi statutes: the Mississippi Antitrust Act, Miss. Code Ann. § 75–21–1 *et seq.* (2009), and the Mississippi Consumer Protection Act, § 75–24–1 *et seq.* (2009 and Cum. Supp. 2013). The State sought injunctive relief and civil penalties under both statutes, along with punitive damages, costs, and attorney's fees. It also sought restitution for its own purchases "of LCD products and the purchases of its citizens." App. to Brief in Opposition 65a; § 75–24–11.

Respondents filed a notice to remove the case from state to federal court, arguing that the case was removable under CAFA as either a "class action" or a "mass action." The District Court ruled that the suit did not qualify as a "class action" because it was "not brought pursuant to Federal Rule of Civil Procedure 23 or a 'similar State statute or rule of judicial procedure.'" 876 F. Supp. 2d 758, 769 (SD Miss. 2012). But it held that the suit did qualify as a "mass ac-

[1] CAFA provides certain exceptions for class actions that involve matters of principally local or state concern. See 28 U. S. C. §§ 1332(d)(3)–(5). None of them are at issue in this case.

tion," because "[i]t is a civil action 'in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact.' " *Id.*, at 771. The District Court reached that conclusion on the basis of Fifth Circuit precedent in *Louisiana ex rel. Caldwell* v. *Allstate Ins. Co.*, 536 F. 3d 418 (CA5 2008), which it understood to "stan[d] for the proposition that the words 'persons' and 'plaintiffs' in [the mass action definition] are to be defined as 'real parties in interest.' " 876 F. Supp. 2d, at 771. Applying that rule, the court found that 100 or more unidentified Mississippi consumers had purchased LCD screens and were therefore real parties in interest to the State's restitution claim. *Ibid.* The court noted the "possibility that a 'mass action' should be thought of as a 'mass joinder' "—that is, as a suit involving 100 or more "named plaintiffs." *Ibid.*, n. 9. But it deemed that interpretation to be foreclosed by *Caldwell*.

The District Court nonetheless remanded the case to state court on the basis of CAFA's "general public exception," which excludes from the "mass action" definition "any civil action in which . . . all of the claims in the action are asserted on behalf of the general public (and not on behalf of individual claimants or members of a purported class) pursuant to a State statute specifically authorizing such action." 28 U. S. C. § 1332(d)(11)(B)(ii)(III).

The Court of Appeals reversed. 701 F. 3d 796 (CA5 2012). It agreed with the District Court's determination that Mississippi's suit is not a "class action" under CAFA.[2] *Id.*, at 799. It also agreed that, under *Caldwell*, the suit qualifies as a "mass action" because "[t]he real parties in interest in Mississippi's suit are those more than 100 . . . individual citizens who purchased the [LCD] products within Mississippi." 701 F. 3d, at 800. It disagreed, however, with the District

[2] Respondents do not challenge this ruling before this Court.

Court's ruling that the suit falls within the general public exception.[3] *Id.*, at 802–803. Judge Elrod concurred in the judgment, noting that after the Fifth Circuit's decision in *Caldwell*, three Courts of Appeals had deemed similar lawsuits not to be mass actions removable under CAFA.[4] We granted certiorari to resolve this split of authority, 569 U. S. 1003 (2013), and now reverse.

II

A

Our analysis begins with the statutory text. *Sebelius* v. *Cloer*, 569 U. S. 369, 376 (2013). The statute provides:

> "[T]he term 'mass action' means any civil action (except a [class action]) in which monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact, except that jurisdiction shall exist only over those plaintiffs whose claims in a mass action satisfy the jurisdictional amount requirements under subsection (a)." § 1332(d)(11)(B)(i).

The parties do not dispute that this provision encompasses suits that are brought jointly by 100 or more named plaintiffs who propose to try their claims together. The question is whether the provision also includes suits brought by fewer than 100 named plaintiffs on the theory that there may be 100 or more unnamed persons who are real parties in inter-

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[3] The Court of Appeals did so on the rationale that because individual Mississippi consumers are real parties in interest to the State's restitution claim, the general public exception's requirement that "all of the claims" must be "asserted on behalf of the general public (and not on behalf of individual claimants)" was not satisfied. 28 U. S. C. § 1332(d)(11)(B)(ii)(III).

[4] See *AU Optronics Corp.* v. *South Carolina*, 699 F. 3d 385 (CA4 2012); *Nevada* v. *Bank of Am. Corp.*, 672 F. 3d 661 (CA9 2012); *LG Display Co.* v. *Madigan*, 665 F. 3d 768 (CA7 2011).

est as beneficiaries to any of the plaintiffs' claims. Respondents argue that the provision covers such suits because "claims of 100 or more persons" refers to "the *persons* to whom the claim belongs, *i. e.*, the real parties in interest *to the claims*," regardless of whether those persons are named or unnamed. Brief for Respondents 19 (some emphasis in original). We disagree.

To start, the statute says "100 or more persons," not "100 or more named or unnamed real parties in interest." Had Congress intended the latter, it easily could have drafted language to that effect. Indeed, when Congress wanted a numerosity requirement in CAFA to be satisfied by counting unnamed parties in interest in addition to named plaintiffs, it explicitly said so: CAFA provides that in order for a class action to be removable, "the number of members of all proposed plaintiff classes" must be 100 or greater, § 1332(d)(5)(B), and it defines "class members" to mean "the persons (named or unnamed) who fall within the definition of the proposed or certified class," § 1332(d)(1)(D). Congress chose not to use the phrase "named or unnamed" in CAFA's mass action provision, a decision we understand to be intentional. See *Dean* v. *United States*, 556 U. S. 568, 573 (2009) ("'[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion'").

More fundamentally, respondents' interpretation cannot be reconciled with the fact that the "100 or more persons" referred to in the statute are not unspecified individuals who have no actual participation in the suit, but instead the very "plaintiffs" referred to later in the sentence—the parties who are proposing to join their claims in a single trial. Congress made this understanding evident in two key ways.

First, we presume that "'Congress is aware of existing law when it passes legislation.'" *Hall* v. *United States*, 566 U. S. 506, 516 (2012). Here, Congress used the terms "persons"

and "plaintiffs" just as they are used in Federal Rule of Civil Procedure 20, governing party joinder. Where § 1332(d)(11)(B)(i) requires that the "claims of 100 or more persons [must be] proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact," Rule 20 provides that "[p]ersons may join in one action as plaintiffs if . . . they assert any right to relief jointly . . . and any question of law or fact common to all plaintiffs will arise in the action." Thus, just as it is used in Rule 20, the term "persons" in § 1332(d)(11)(B)(i) refers to the individuals who are proposing to join as plaintiffs in a single action.

Second, respondents' interpretation of "persons" cannot square with the statute's requirement that the claims of the "100 or more persons" must be proposed for joint trial "on the ground that the plaintiffs' claims involve common questions of law or fact." § 1332(d)(11)(B)(i). It is difficult to imagine how the claims of one set of unnamed individuals could be proposed for joint trial on the ground that the claims of some completely different group of named plaintiffs share common questions. The better understanding is that Congress meant for the "100 or more persons" and the proposed "plaintiffs" to be one and the same.

Recognizing that the statute's use of the term "persons" could be a reference to proposed plaintiffs, respondents assert that "plaintiffs," like "persons," should be construed to "includ[e] both named and unnamed real parties in interest." Brief for Respondents 24. But that stretches the meaning of "plaintiff" beyond recognition. The term "plaintiff" is among the most commonly understood of legal terms of art: It means a "party who brings a civil suit in a court of law." Black's Law Dictionary 1267 (9th ed. 2009); see also Webster's Third New International Dictionary 1729 (1961) (defining "plaintiff" to mean "one who commences a personal action or lawsuit," or "the complaining party in any litiga-

tion"). It certainly does not mean "anyone, named or unnamed, whom a suit may benefit," as respondents suggest.[5]

Moreover, Congress used the term "plaintiffs" twice in the mass action provision. The provision encompasses actions in which monetary "claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions," and it then provides that "jurisdiction shall exist only over those plaintiffs whose claims in a mass action satisfy the jurisdictional amount requiremen[t]" of $75,000. § 1332(d)(11)(B)(i). If respondents are correct that "plaintiffs" means unnamed parties in interest where it is used the first time, then so too the second. After all, the "presumption that a given term is used to mean the same thing throughout a statute" is "at its most vigorous when a term is repeated within a given sentence." *Brown* v. *Gardner*, 513 U. S. 115, 118 (1994).

Yet if the term "plaintiffs" is stretched to include all unnamed individuals with an interest in the suit, then § 1332(d)(11)(B)(i)'s requirement that "jurisdiction shall exist only over those plaintiffs whose claims [exceed $75,000]" becomes an administrative nightmare that Congress could not possibly have intended, see *Griffin* v. *Oceanic Contractors, Inc.*, 458 U. S. 564, 575 (1982). How is a district court to identify the unnamed parties whose claims in a given case are for less than $75,000? Would the court in this case, for instance, have to hold an evidentiary hearing to determine the identity of each of the hundreds of thousands of unnamed Mississippi citizens who purchased one of respondents' LCD products between 1996 and 2006 (the period alleged in the complaint)? Even if it could identify every such person, how would it ascertain the amount in controversy for each individual claim? Respondents suggest that "[i]n some cir-

[5] Congress could of course require a real party in interest inquiry in a statute that uses the term "plaintiff" simply by saying so. But it has not done that here.

cumstances, defendants may be able to identify from their payment records any persons who may have claims for overpayments," but they stop notably short of claiming to possess such decades-old records themselves. Brief for Respondents 25.

Furthermore, what would happen with individuals whose claims were valued at less than $75,000? The District Court in this case suggested that if the suit were deemed a mass action, it would sever the claim for "restitution for losses incurred by individuals claiming less than or equal to $75,000 each" and remand that claim to state court, while allowing the other claims (including the restitution claims exceeding $75,000) to proceed in federal court. 876 F. Supp. 2d, at 775 (footnote omitted). Even respondents do not defend that outcome, presumably because it would mean that much of the State's lawsuit could proceed in state court after all, simultaneously with the newly severed parallel federal action.[6]

We think it unlikely that Congress intended that federal district courts engage in these unwieldy inquiries. By contrast, interpreting "plaintiffs" in accordance with its usual meaning—to refer to the actual named parties who bring an action—leads to a straightforward, easy to administer rule under which a court would examine whether the plaintiffs have pleaded in good faith the requisite amount. See *Horton* v. *Liberty Mut. Ins. Co.*, 367 U. S. 348, 353 (1961). Our decision thus comports with the commonsense observation that "when judges must decide jurisdictional matters, sim-

[6] Respondents suggest that a district court might be able to exercise supplemental jurisdiction over the claims that fall beneath $75,000, thereby avoiding the problem of identifying and remanding such claims to the state court. We need not decide the issue here, but we note that at least one Court of Appeals has rejected that view. See *Lowery* v. *Alabama Power Co.*, 483 F. 3d 1184, 1206, n. 51 (CA11 2007) (holding that because supplemental jurisdiction does not apply where a federal statute "'expressly provide[s] otherwise,'" 28 U. S. C. § 1367(a), the mass action provision's explicit exclusion of jurisdiction over claims beneath $75,000 negates supplemental jurisdiction over such claims).

plicity is a virtue." See *Standard Fire Ins. Co.* v. *Knowles*, 568 U. S. 588, 595 (2013).

B

Our reading of the mass action provision's text is reinforced by the statutory context. See *Mohamad* v. *Palestinian Authority*, 566 U. S. 449, 455–456 (2012).

First, the provision of CAFA governing transfer motions confirms our view that the term "plaintiffs" refers to actual named parties as opposed to unnamed real parties in interest. That provision, § 1332(d)(11)(C)(i), provides that once a mass action has been removed to federal court, it "shall not thereafter be transferred to any other court . . . unless a majority of the plaintiffs in the action request transfer." If respondents are correct that "plaintiffs" means "unnamed parties in interest," it will be surpassingly difficult for a court to decide in a case like this one whether an action may be transferred. The District Court itself acknowledged this problem, noting that it would have to identify and communicate with "hundreds of thousands if not millions of real parties in interest" to "pol[l] [them] about their preferred forum" if respondents' interpretation were correct. 876 F. Supp. 2d, at 777.

The context in which the mass action provision was enacted lends further support to our conclusion. Congress' overriding concern in enacting CAFA was with class actions. See Preamble, 119 Stat. 4 (describing CAFA as "An Act To amend the procedures that apply to consideration of interstate class actions"); CAFA § 2 (Congress' findings with respect to class actions). The mass action provision thus functions largely as a backstop to ensure that CAFA's relaxed jurisdictional rules for class actions cannot be evaded by a suit that names a host of plaintiffs rather than using the class device. Respondents' argument fails to recognize this key distinction. Their position is ultimately that "[t]his action is similar to a class action," such that it should be removed. Brief for Respondents 27. But if Congress had wanted rep-

resentative actions brought by States as sole plaintiffs to be removable under CAFA on the theory that they are in substance no different from class actions, it would have done so through the class-action provision, not the one governing mass actions.[7]

III

Rather than relying on the text of CAFA as the source of its real party in interest inquiry, the Court of Appeals appeared to find such an inquiry necessary on the basis of what it understood to be a background principle: that "federal courts look to the substance of the action and not only at the labels that the parties may attach." *Caldwell*, 536 F. 3d, at 424. This was error.

We have interpreted the diversity jurisdiction statute to require courts in certain contexts to look behind the pleadings to ensure that parties are not improperly creating or destroying diversity jurisdiction. We have held, for example, that a plaintiff may not keep a case out of federal court by fraudulently naming a nondiverse defendant. *Wecker* v. *National Enameling & Stamping Co.*, 204 U. S. 176, 185–186 (1907). Nor may a plaintiff create diversity by collusively assigning his interest in an action. *Kramer* v. *Caribbean Mills, Inc.*, 394 U. S. 823, 825–830 (1969); see also 28 U. S. C. § 1359. And in cases involving a State or state official, we have inquired into the real party in interest because a State's presence as a party will destroy complete diversity. *Missouri, K. & T. R. Co.* v. *Missouri Railroad and Warehouse Comm'rs*, 183 U. S. 53, 58–59 (1901).

But the question in this case is not simply whether there exists some background principle of analyzing the real parties in interest to a suit; the question is whether Congress intended that courts engage in that analysis when deciding

[7] The parties both point to the "general public exception," § 1332(d)(11)(B)(ii)(III), in support of their respective positions. But because the foregoing arguments resolve this case, we need not construe that provision here.

whether a suit is a mass action. Recognizing this fact, respondents do not argue that the real party in interest inquiry employed in the above cases somehow supersedes the text of CAFA; they instead argue that we should read CAFA in light of those cases because "'Congress expects its statutes to be read in conformity with this Court's precedents.'" Brief for Respondents 19 (quoting *United States* v. *Wells*, 519 U. S. 482, 495 (1997)). For two reasons, however, we conclude that Congress did not intend the background inquiry to apply to the mass action provision.

First, it makes sense to infer Congress' intent to incorporate a background principle into a new statute where the principle has previously been applied in a similar manner. But that is not the case here. The background real party in interest inquiry identifies what party's (or parties') citizenship should be considered in determining diversity. The inquiry that respondents urge is quite different: It is an attempt to count up additional unnamed parties in order to satisfy the mass action provision's numerosity requirement. Respondents offer no reason to believe that Congress intended to extend the real party inquiry to this new circumstance, and so any presumption that Congress wanted to incorporate the inquiry, if it exists in this case at all, would be comparatively weak. Cf. *Meyer* v. *Holley*, 537 U. S. 280, 286 (2003) ("Congress' silence, while permitting an inference that Congress intended to apply *ordinary* background tort principles, cannot show that it intended to apply an unusual modification of those rules").[8]

[8] We have also applied a real party in interest inquiry in contexts other than that of determining citizenship for purposes of diversity jurisdiction. See *North Dakota* v. *Minnesota*, 263 U. S. 365, 374–376 (1923) (state sovereign immunity); *Oklahoma ex rel. Johnson* v. *Cook*, 304 U. S. 387, 392–393 (1938) (original jurisdiction). But even if we were to indulge in a presumption that Congress somehow intended to import the inquiry applied in those particular contexts into the mass action provision's distinct numerosity requirement, we would find any such presumption overridden by CAFA's text.

Second, even if the background principle had previously been applied in the manner sought by respondents, Congress provided express indications that it did not want the principle to apply to the mass action provision. It specified that "the term 'mass action' shall not include any civil action in which . . . the claims are joined upon motion of a defendant." § 1332(d)(11)(B)(ii)(II). By prohibiting defendants from joining unnamed individuals to a lawsuit in order to turn it into a mass action, Congress demonstrated its focus on the persons who are actually proposing to join together as named plaintiffs in the suit. Requiring district courts to pierce the pleadings to identify unnamed persons interested in the suit would run afoul of that intent. Moreover, as already discussed, Congress repeatedly used the word "plaintiffs" to describe the 100 or more persons whose claims must be proposed for a joint trial. That word refers to actual, named parties—a concept inherently at odds with the background inquiry into unnamed real parties in interest, who by definition are never plaintiffs. Congress thus clearly displaced a background real party in interest inquiry, even assuming one might otherwise apply. Cf. *Barnhart* v. *Sigmon Coal Co.*, 534 U. S. 438, 459, n. 16 (2002).

* * *

For the foregoing reasons, the judgment of the United States Court of Appeals for the Fifth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

RAY HALUCH GRAVEL CO. ET AL. *v.* CENTRAL PENSION FUND OF INTERNATIONAL UNION OF OPERATING ENGINEERS AND PARTICIPATING EMPLOYERS ET AL.

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

No. 12–992. Argued December 9, 2013—Decided January 15, 2014

Respondents, various union-affiliated benefit funds (Funds), sued petitioner Ray Haluch Gravel Co. (Haluch) in Federal District Court to collect benefits contributions required to be paid under federal law. The Funds also sought attorney's fees and costs, which were obligations under both a federal statute and the parties' collective-bargaining agreement (CBA). The District Court issued an order on June 17, 2011, on the merits of the contribution claim and a separate ruling on July 25 on the Funds' motion for fees and costs. The Funds appealed both decisions on August 15. Haluch argued that the June 17 order was a final decision pursuant to 28 U. S. C. § 1291, and thus, the Funds' notice of appeal was untimely since it was not filed within the Federal Rules of Appellate Procedure's 30-day deadline. The Funds disagreed, arguing that there was no final decision until July 25. The First Circuit acknowledged that an unresolved attorney's fees issue generally does not prevent judgment on the merits from being final, but held that no final decision was rendered until July 25 since the entitlement to fees and costs provided for in the CBA was an element of damages and thus part of the merits. Accordingly, the First Circuit addressed the appeal with respect to both the unpaid contributions and the fees and costs.

Held: The appeal of the June 17 decision was untimely. Pp. 183–190.

(a) This case has instructive similarities to *Budinich* v. *Becton Dickinson & Co.*, 486 U. S. 196. There, this Court held a district court judgment to be a "final decision" for § 1291 purposes despite an unresolved motion for statutory-based attorney's fees, noting that fee awards do not remedy the injury giving rise to the action, are often available to the defending party, and were, at common law, an element of "costs" awarded to a prevailing party, not a part of the merits judgment. *Id.*, at 200. Even if laws authorizing fees might sometimes treat them as part of the merits, considerations of "operational consistency and predictability in the overall application of § 1291" favored a "uniform rule." *Id.*, at 202. Pp. 183–184.

(b) The Funds' attempts to distinguish *Budinich* fail. Pp. 184–190.

(1) Their claim that contractual attorney's fees provisions are always a measure of damages is unpersuasive, for such provisions often provide attorney's fees to prevailing defendants. More basic, *Budinich*'s uniform rule did not depend on whether the law authorizing a particular fee claim treated the fees as part of the merits, 486 U. S., at 201, and there is no reason to depart from that sound reasoning here. The operational consistency stressed in *Budinich* is not promoted by providing for different jurisdictional effect based solely on whether an asserted right to fees is based on contract or statute. Nor is predictability promoted since it is not always clear whether and to what extent a fee claim is contractual rather than statutory. The Funds urge the importance of avoiding piecemeal litigation, but the *Budinich* Court was aware of such concerns when it adopted a uniform rule, and it suffices to say that those concerns are counterbalanced by the interest in determining with promptness and clarity whether the ruling on the merits will be appealed, especially given the complexity and amount of time it may take to resolve attorney's fees claims. Furthermore, the Federal Rules of Civil Procedure provide a means to avoid a piecemeal approach in many cases. See, *e. g.*, Rules 54(d)(2), 58(e). Complex variations in statutory and contractual fee-shifting provisions also counsel against treating attorney's fees claims authorized by contract and statute differently for finality purposes. The *Budinich* rule looks solely to the character of the issue that remains open after the court has otherwise ruled on the merits. The Funds suggest that it is unclear whether *Budinich* applies where, as here, nonattorney professional fees are included in a motion for attorney's fees and costs. They are mistaken to the extent that they suggest that such fees will be claimed only where a contractual fee claim is involved. Many fee-shifting statutes authorize courts to award related litigation expenses like expert fees, see *West Virginia Univ. Hospitals, Inc.* v. *Casey*, 499 U. S. 83, 89, n. 4, and there is no apparent reason why parties or courts would find it difficult to tell that *Budinich* remains applicable where such fees are claimed and awarded incidental to attorney's fees. Pp. 184–189.

(2) The Funds' claim that fees accrued prior to the commencement of litigation fall outside the scope of *Budinich* is also unpersuasive. *Budinich* referred to fees "for the litigation in question," 486 U. S., at 202, or "attributable to the case," *id.*, at 203, but this Court has observed that "some of the services performed before a lawsuit is formally commenced by the filing of a complaint are performed 'on the litigation,'" *Webb* v. *Dyer County Bd. of Ed.*, 471 U. S. 234, 243. Here, the fees for investigation, preliminary legal research, drafting of demand letters,

and working on the initial complaint fit the description of standard preliminary steps toward litigation. Pp. 189–190.

695 F. 3d 1, reversed and remanded.

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

Dan Himmelfarb argued the cause for petitioners. With him on the briefs were *Charles A. Rothfeld*, *Michael B. Kimberly*, *Scott M. Noveck*, *Michael K. Callan*, and *José A. Aguiar*.

James A. Feldman argued the cause for respondents. With him on the brief were *Stephanos Bibas*, *Nancy Bregstein Gordon*, and *Kenneth L. Wagner*.

JUSTICE KENNEDY delivered the opinion of the Court.

Federal courts of appeals have jurisdiction of appeals from "final decisions" of United States district courts. 28 U. S. C. § 1291. In *Budinich* v. *Becton Dickinson & Co.*, 486 U. S. 196 (1988), this Court held that a decision on the merits is a "final decision" under § 1291 even if the award or amount of attorney's fees for the litigation remains to be determined. The issue in this case is whether a different result obtains if the unresolved claim for attorney's fees is based on a contract rather than, or in addition to, a statute. The answer here, for purposes of § 1291 and the Federal Rules of Civil Procedure, is that the result is not different. Whether the claim for attorney's fees is based on a statute, a contract, or both, the pendency of a ruling on an award for fees and costs does not prevent, as a general rule, the merits judgment from becoming final for purposes of appeal.

I

Petitioner Ray Haluch Gravel Co. (Haluch) is a landscape supply company. Under a collective-bargaining agreement (CBA) with the International Union of Operating Engineers, Local 98, Haluch was required to pay contributions to union-affiliated benefit funds. Various of those funds are respondents here.

In 2007, respondents (Funds) commissioned an audit to determine whether Haluch was meeting its obligations under the CBA. Based on the audit, the Funds demanded additional contributions. Haluch refused to pay, and the Funds filed a lawsuit in the United States District Court for the District of Massachusetts.

The Funds alleged that Haluch's failure to make the required contributions was a violation of the Employee Retirement Income Security Act of 1974 (ERISA) and the Labor Management Relations Act, 1947. The Funds also sought attorney's and auditor's fees and costs, under § 502(g)(2)(D) of ERISA, 94 Stat. 1295, 29 U. S. C. § 1132(g)(2)(D) (providing for "reasonable attorney's fees and costs of the action, to be paid by the defendant"), and the CBA itself, App. to Pet. for Cert. 52a (providing that "[a]ny costs, including legal fees, of collecting payments due these Funds shall be borne by the defaulting Employer").

At the conclusion of a bench trial, the District Court asked the parties to submit proposed findings of fact and conclusions of law to allow the court "to consider both the possibility of enforcing [a] settlement and a decision on the merits at the same time." Tr. 50 (Feb. 28, 2011). These submissions were due on March 14, 2011. The District Court went on to observe that "[u]nder our rules . . . if there is a judgment for the plaintiffs, typically a motion for attorney's fees can be filed" shortly thereafter. *Id.*, at 51. It also noted that, "[o]n the other hand, attorney's fees is part of the damages potentially here." *Ibid.* It gave the plaintiffs the option to offer a submission with regard to fees along with their proposed findings of fact and conclusions of law, or to "wait to see if I find in your favor and submit the fee petition later on." *Ibid.*

The Funds initially chose to submit their fee petition at the same time as their proposed findings of fact and conclusions of law, but they later changed course. They requested an extension of time to file their "request for reimbursement of attorneys' fees and costs in the above matter." Motion

To Extend Time To Submit Request for Attorneys' Fees in No. 09–cv–11607–MAP (D Mass.), p. 1. The District Court agreed; and on April 4, the Funds moved "for an [o]rder awarding the total attorneys' fees and costs incurred . . . in attempting to collect this delinquency, in obtaining the audit, in protecting Plaintiffs' interests, and in protecting the interests of the participants and beneficiaries." App. 72. The motion alleged that "[t]hose fees and costs . . . amount to $143,600.44," and stated that "[d]efendants are liable for these monies pursuant to" ERISA, "and for the reasons detailed in the accompanying" affidavit. *Ibid.* The accompanying "affidavit in support of [the] application for attorneys' fees and costs," in turn, cited the parties' agreements (including the CBA, as well as related trust agreements) and § 502(g)(2)(D) of ERISA. *Id.*, at 74.

As to the merits of the claim that Haluch had underpaid, on June 17, 2011, the District Court issued a memorandum and order ruling that the Funds were entitled to certain unpaid contributions, though less than had been requested. *International Union of Operating Engineers, Local 98 Health and Welfare, Pension and Annuity Funds* v. *Ray Haluch Gravel Co.*, 792 F. Supp. 2d 129 (Mass.). A judgment in favor of the Funds in the amount of $26,897.41 was issued the same day. App. to Pet. for Cert. 39a–40a. The District Court did not rule on the Funds' motion for attorney's fees and costs until July 25, 2011. On that date it awarded $18,000 in attorney's fees, plus costs of $16,688.15, for a total award of $34,688.15. 792 F. Supp. 2d 139, 143. On August 15, 2011, the Funds appealed from both decisions. Haluch filed a cross-appeal a week later.

In the Court of Appeals Haluch argued that there had been no timely appeal from the June 17 decision on the merits. In its view, the June 17 decision was a final decision under § 1291, so that notice of appeal had to be filed within 30 days thereafter, see Fed. Rule App. Proc. 4(a)(1)(A). The Funds disagreed. They argued that there was no final decision until July 25, when the District Court rendered a deci-

sion on their request for attorney's fees and costs. In their view the appeal was timely as to all issues in the case. See *Digital Equipment Corp.* v. *Desktop Direct, Inc.*, 511 U. S. 863, 868 (1994).

The Court of Appeals agreed with the Funds. 695 F. 3d 1, 7 (CA1 2012). It acknowledged this Court's holding that an unresolved issue of attorney's fees generally does not prevent judgment on the merits from being final. But it held that this rule does not "mechanically . . . apply to all claims for attorneys' fees, whatever their genesis," and that, instead, "[w]here, as here, an entitlement to attorneys' fees derives from a contract . . . the critical question is whether the claim for attorneys' fees is part of the merits." *Id.*, at 6. Interpreting the CBA in this case as "provid[ing] for the payment of attorneys' fees as an element of damages in the event of a breach," the Court of Appeals held that the June 17 decision was not final. *Ibid.* Concluding that the appeal was timely as to all issues, the Court of Appeals addressed the merits of the dispute with respect to the amount of unpaid remittances as well as the issue of fees and costs, remanding both aspects of the case to the District Court. *Id.*, at 11.

Haluch sought review here, and certiorari was granted to resolve a conflict in the Courts of Appeals over whether and when an unresolved issue of attorney's fees based on a contract prevents a judgment on the merits from being final. 570 U. S. 904 (2013). Compare *O & G Industries, Inc.* v. *National Railroad Passenger Corporation*, 537 F. 3d 153, 167, 168, and n. 11 (CA2 2008); *United States ex rel. Familian Northwest, Inc.* v. *RG & B Contractors, Inc.*, 21 F. 3d 952, 954–955 (CA9 1994); *Continental Bank, N. A.* v. *Everett*, 964 F. 2d 701, 702–703 (CA7 1992); and *First Nationwide Bank* v. *Summer House Joint Venture*, 902 F. 2d 1197, 1199–1200 (CA5 1990), with *Carolina Power & Light Co.* v. *Dynegy Marketing & Trade*, 415 F. 3d 354, 356 (CA4 2005); *Brandon, Jones, Sandall, Zeide, Kohn, Chalal & Musso, P. A.* v. *Med-*

Partners, Inc., 312 F. 3d 1349, 1355 (CA11 2002) (*per curiam*); *Gleason* v. *Norwest Mortgage, Inc.*, 243 F. 3d 130, 137–138 (CA3 2001); and *Justine Realty Co.* v. *American Nat. Can Co.*, 945 F. 2d 1044, 1047–1049 (CA8 1991). For the reasons set forth, the decision of the Court of Appeals must be reversed.

II

Title 28 U. S. C. § 1291 provides that "[t]he courts of appeals . . . shall have jurisdiction of appeals from all final decisions of the district courts of the United States . . . ." "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles* v. *Russell*, 551 U. S. 205, 214 (2007). Rule 4 of the Federal Rules of Appellate Procedure provides, as a general matter and subject to specific qualifications set out in later parts of the Rule, that in a civil case "the notice of appeal . . . must be filed . . . within 30 days after entry of the judgment or order appealed from." Rule 4(a)(1)(A). The parties in this case agree that notice of appeal was not given within 30 days of the June 17 decision but that it was given within 30 days of the July 25 decision. The question is whether the June 17 order was a final decision for purposes of § 1291.

In the ordinary course a "final decision" is one that ends the litigation on the merits and leaves nothing for the court to do but execute the judgment. *Catlin* v. *United States*, 324 U. S. 229, 233 (1945). In *Budinich*, this Court addressed the question whether an unresolved issue of attorney's fees for the litigation prevents a judgment from being final. 486 U. S., at 202. There, a District Court in a diversity case had entered a judgment that left unresolved a motion for attorney's fees based on a Colorado statute providing attorney's fees to prevailing parties in certain cases. *Id.*, at 197. The Court held that the judgment was final for purposes of § 1291 despite the unresolved issue of attorney's fees. *Id.*, at 202.

The Court in *Budinich* began by observing that "[a]s a general matter, at least, . . . a claim for attorney's fees is not

part of the merits of the action to which the fees pertain." *Id.*, at 200. The Court noted that awards of attorney's fees do not remedy the injury giving rise to the action, are often available to the party defending the action, and were regarded at common law as an element of "costs" awarded to a prevailing party, which are generally not treated as part of the merits judgment. *Ibid.* Though the Court acknowledged that the statutory or decisional law authorizing the fees might sometimes treat the fees as part of the merits, it held that considerations of "operational consistency and predictability in the overall application of § 1291" favored a "uniform rule that an unresolved issue of attorney's fees for the litigation in question does not prevent judgment on the merits from being final." *Id.*, at 202.

The facts of this case have instructive similarities to *Budinich*. In both cases, a plaintiff sought to recover employment-related payments. In both cases, the District Court entered a judgment resolving the claim for unpaid amounts but left outstanding a request for attorney's fees incurred in the course of litigating the case. Despite these similarities, the Funds offer two arguments to distinguish *Budinich*. First, they contend that unresolved claims for attorney's fees authorized by contract, unlike those authorized by statute, are not collateral for finality purposes. Second, they argue that the claim left unresolved as of June 17 included fees incurred prior to the commencement of formal litigation and that those fees, at least, fall beyond the scope of the rule announced in *Budinich*. For the reasons given below, the Court rejects these arguments.

III

A

The Funds' principal argument for the nonfinality of the June 17 decision is that a district court decision that does not resolve a fee claim authorized by contract is not final for purposes of § 1291, because it leaves open a claim for contract

damages. They argue that contractual provisions for attorney's fees or costs of collection, in contrast to statutory attorney's fees provisions, are liquidated-damages provisions intended to remedy the injury giving rise to the action.

The premise that contractual attorney's fees provisions are always a measure of damages is unpersuasive, for contractual fee provisions often provide attorney's fees to prevailing defendants. See 1 R. Rossi, Attorneys' Fees § 9:25, p. 9–64 (3d ed. 2012); cf. *Gleason*, *supra*, at 137, n. 3. The Funds' argument fails, however, for a more basic reason, which is that the Court in *Budinich* rejected the very distinction the Funds now attempt to draw.

The decision in *Budinich* made it clear that the uniform rule there announced did not depend on whether the statutory or decisional law authorizing a particular fee claim treated the fees as part of the merits. 486 U. S., at 201. The Court acknowledged that not all statutory or decisional law authorizing attorney's fees treats those fees as part of "costs" or otherwise not part of the merits; and the Court even accepted for purposes of argument that the Colorado statute in that case "ma[de] plain" that the fees it authorized "are to be part of the merits judgment." *Ibid.* But this did not matter. As the Court explained, the issue of attorney's fees was still collateral for finality purposes under § 1291. The Court was not then, nor is it now, "inclined to adopt a disposition that requires the merits or nonmerits status of each attorney's fee provision to be clearly established before the time to appeal can be clearly known." *Id.*, at 202. There is no reason to depart here from this sound reasoning. By arguing that a different rule should apply to fee claims authorized by contract because they are more often a matter of damages and thus part of the merits, the Funds seek in substance to relitigate an issue already decided in *Budinich*.

Were the jurisdictional effect of an unresolved issue of attorney's fees to depend on whether the entitlement to fees is asserted under a statute, as distinct from a contract, the

operational consistency and predictability stressed in *Budinich* would be compromised in many instances. Operational consistency is not promoted by providing for different jurisdictional effect to district court decisions that leave unresolved otherwise identical fee claims based solely on whether the asserted right to fees is based on a contract or a statute.

The Funds' proposed distinction also does not promote predictability. Although sometimes it may be clear whether and to what extent a fee claim is contractual rather than statutory in nature, that is not always so. This case provides an apt illustration. The Funds' notice of motion itself cited just ERISA; only by consulting the accompanying affidavit, which included an oblique reference to the CBA, could it be discerned that a contractual fee claim was being asserted in that filing. This may explain why the District Court's July 25 decision cited just ERISA, without mention or analysis of the CBA provision or any other contractual provision. 792 F. Supp. 2d, at 140.

The Funds urge the importance of avoiding piecemeal litigation. The basic point is well taken, yet, in the context of distinguishing between different sources for awards of attorney's fees, quite inapplicable. The Court was aware of piecemeal litigation concerns in *Budinich*, but it still adopted a uniform rule that an unresolved issue of attorney's fees for the litigation does not prevent judgment on the merits from being final. Here it suffices to say that the Funds' concern over piecemeal litigation, though starting from a legitimate principle, is counterbalanced by the interest in determining with promptness and clarity whether the ruling on the merits will be appealed. This is especially so because claims for attorney's fees may be complex and require a considerable amount of time to resolve. Indeed, in this rather simple case, the fee-related submissions take up well over 100 pages in the joint appendix. App. 64–198.

The Federal Rules of Civil Procedure, furthermore, provide a means to avoid a piecemeal approach in the ordinary

run of cases where circumstances warrant delaying the time to appeal. Rule 54(d)(2) provides for motions claiming attorney's fees and related nontaxable expenses. Rule 58(e), in turn, provides that the entry of judgment ordinarily may not be delayed, nor may the time for appeal be extended, in order to tax costs or award fees. This accords with *Budinich* and confirms the general practice of treating fees and costs as collateral for finality purposes. Having recognized this premise, Rule 58(e) further provides that if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect as a timely motion under Rule 59 for purposes of Federal Rule of Appellate Procedure 4(a)(4). This delays the running of the time to file an appeal until the entry of the order disposing of the fee motion. Rule 4(a)(4)(A)(iii).

In their brief in opposition to the petition for certiorari, the Funds argued that in their case this procedure would not have been applicable. Brief in Opposition 34. Rule 54(d)(2) provides that "[a] claim for attorney's fees and related nontaxable expenses must be made by motion unless the substantive law requires those fees to be proved at trial as an element of damages." The Advisory Committee Notes to Rule 54(d)(2) state that the procedure outlined in that Rule "does not . . . apply to fees recoverable as an element of damages, as when sought under the terms of a contract; such damages typically are to be claimed in a pleading and may involve issues to be resolved by a jury." Advisory Committee's 1993 Note on subd. (d), par. (2), of Fed. Rule Civ. Proc. 54, 28 U. S. C. App., pp. 240–241.

The Funds no longer rely on their reading of Rule 54 and the Advisory Committee Notes as a basis for their argument that the June 17 decision was not final under § 1291. And this is not a case in which the parties attempted to invoke Rule 58(e) to delay the time to appeal. Regardless of how the Funds' fee claims could or should have been litigated,

however, the Rules eliminate concerns over undue piecemeal appeals in the vast range of cases where a claim for attorney's fees is made by motion under Rule 54(d)(2). That includes some cases in which the fees are authorized by contract. See 2 M. Derfner & A. Wolf, Court Awarded Attorney Fees ¶18.01[1][c], pp. 18–7 to 18–8 (2013) (remarking that Rule 54(d)(2) applies "regardless of the statutory, contractual, or equitable basis of the request for fees," though noting inapplicability where attorney's fees are an element of damages under the substantive law governing the action).

The complex variations in statutory and contractual fee-shifting provisions also counsel against making the distinction the Funds suggest for purposes of finality. Some fee-shifting provisions treat the fees as part of the merits; some do not. Some are bilateral, authorizing fees either to plaintiffs or defendants; some are unilateral. Some depend on prevailing party status; some do not. Some may be unclear on these points. The rule adopted in *Budinich* ignores these distinctions in favor of an approach that looks solely to the character of the issue that remains open after the court has otherwise ruled on the merits of the case.

In support of their argument against treating contractual and statutory fee claims alike the Funds suggest, nevertheless, that it is unclear whether *Budinich* still applies where, as here, auditor's fees (or other nonattorney professional fees) are included as an incidental part of a motion for attorney's fees and costs. (In this case, auditor's fees accounted for $6,537 of the $143,600.44 requested in total.) To the extent the Funds suggest that similar fees will be claimed alongside attorney's fees only where a contractual fee claim is involved, they are incorrect. Statutory fee claims are not always limited to attorney's fees *per se.* Many fee-shifting statutes authorize courts to award additional litigation expenses, such as expert fees. See *West Virginia Univ. Hospitals, Inc.* v. *Casey*, 499 U. S. 83, 89, n. 4 (1991) (listing stat-

utes); cf. Fed. Rule Civ. Proc. 54(d)(2)(A) (providing mechanism for claims by motion for "attorney's fees and related nontaxable expenses"). Where, as here, those types of fees are claimed and awarded incidental to attorney's fees, there is no apparent reason why parties or courts would find it difficult to tell that *Budinich* remains applicable.

B

The Funds separately contend that the June 17 decision was not final because their motion claimed some $8,561.75 in auditor's and attorney's fees (plus some modest additional expenses) incurred prior to the commencement of litigation. These included fees for the initial audit to determine whether Haluch was complying with the CBA, as well as attorney's fees incurred in attempting to obtain records from Haluch, researching fund auditing rights, drafting a letter demanding payment, and working on the initial complaint. Brief for Respondents 4–5; App. 64–67, 81–88. The Funds argue that these fees do not fall within the scope of *Budinich*, because the Court in *Budinich* referred only to fees "for the litigation in question," 486 U. S., at 202, or, equivalently, "attributable to the case," *id.*, at 203.

The fact that some of the claimed fees accrued before the complaint was filed is inconsequential. As this Court has observed, "some of the services performed before a lawsuit is formally commenced by the filing of a complaint are performed 'on the litigation.'" *Webb* v. *Dyer County Bd. of Ed.*, 471 U. S. 234, 243 (1985). "Most obvious examples" include "the drafting of the initial pleadings and the work associated with the development of the theory of the case." *Ibid.* More generally, prefiling tasks may be for the litigation if they are "both useful and of a type ordinarily necessary to advance the . . . litigation" in question. *Ibid.*

The fees in this case fit that description. Investigation, preliminary legal research, drafting of demand letters, and working on the initial complaint are standard preliminary

steps toward litigation. See *id.*, at 250 (Brennan, J., concurring in part and dissenting in part) ("[I]t is settled that a prevailing party may recover fees for the time spent before the formal commencement of the litigation on such matters as . . . investigation of the facts of the case, research on the viability of potential legal claims, [and] drafting of the complaint and accompanying documents . . . "); 2 Derfner, *supra*, ¶16.02[2][b], at 16–15 ("[H]ours . . . spent investigating facts specific to the client's case should be included in the lodestar, whether [or not] that time is spent prior to the filing of a complaint"). To be sure, the situation would differ if a party brought a freestanding contract action asserting an entitlement to fees incurred in an effort to collect payments that were not themselves the subject of the litigation. But that is not this case. Here the unresolved issue left open by the June 17 order was a claim for fees for the case being resolved on the merits.

* * *

There was no timely appeal of the District Court's June 17 order. The judgment of the Court of Appeals is reversed. The case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

MEDTRONIC, INC. *v.* MIROWSKI FAMILY VENTURES, LLC

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

No. 12–1128. Argued November 5, 2013—Decided January 22, 2014

Petitioner Medtronic, Inc., designs, makes, and sells medical devices. Respondent Mirowski Family Ventures, LLC, owns patents relating to implantable heart stimulators. They have a licensing agreement that permits Medtronic to practice certain Mirowski patents in exchange for royalty payments, and that specifies procedures to identify products covered by the license and to resolve disputes between the parties. Pursuant to those procedures, Mirowski notified Medtronic of its belief that several of Medtronic's products infringed the licensed patents, and Medtronic then challenged that assertion of infringement in a declaratory judgment action, while accumulating disputed royalties in an escrow account for distribution to the prevailing party. The District Court concluded that Mirowski, as the party asserting infringement, had the burden of proving infringement and that Mirowski had not met that burden. The Federal Circuit disagreed. It acknowledged that a patentee normally bears the burden of proof but concluded that where the patentee is a declaratory judgment defendant and, like Mirowski, is foreclosed from asserting an infringement counterclaim by the continued existence of a licensing agreement, the party seeking the declaratory judgment, namely, Medtronic, bears the burden of persuasion.

Held:

1. The Federal Circuit did not lack subject-matter jurisdiction in this case. Title 28 U. S. C. § 1338(a) gives federal district courts exclusive jurisdiction over "any civil action arising under any Act of Congress relating to patents," and § 1295(a)(1) gives the Federal Circuit appellate jurisdiction over any case where jurisdiction in the district court "was based, in whole or in part, on section 1338." The Declaratory Judgment Act does not "extend" the federal courts' "jurisdiction," *Skelly Oil Co.* v. *Phillips Petroleum Co.*, 339 U. S. 667, 671; and federal courts determining declaratory judgment jurisdiction often look to the "character" of the declaratory judgment *defendant*'s "threatened action," *Public Serv. Comm'n of Utah* v. *Wycoff Co.*, 344 U. S. 237, 248, *i. e.*, whether the defendant's hypothetical "coercive action" "would necessarily present a federal question," *Franchise Tax Bd. of Cal.* v. *Construction Laborers Vacation Trust for Southern Cal.*, 463 U. S. 1, 19. Here, if Medtronic

had acted consistent with the understanding of its rights that it seeks to establish through the declaratory judgment suit (by ceasing to pay royalties), Mirowski could terminate the license and bring a suit for infringement. That suit would arise under federal patent law because "patent law creates the cause of action." *Christianson* v. *Colt Industries Operating Corp.*, 486 U. S. 800, 809. Thus, this declaratory judgment action, which avoids that hypothetical threatened action, also "arises under" federal patent law. See, *e. g.*, *Franchise Tax Bd.*, *supra*, at 19. Pp. 196–198.

2. When a licensee seeks a declaratory judgment against a patentee that its products do not infringe the licensed patent, the patentee bears the burden of persuasion on the issue of infringement. Pp. 198–203.

(a) This conclusion is strongly supported by three settled legal propositions: First, a patentee ordinarily bears the burden of proving infringement, see, *e. g.*, *Agawam Co.* v. *Jordan*, 7 Wall. 583, 609; second, the "operation of the Declaratory Judgment Act" is only "procedural," *Aetna Life Ins. Co.* v. *Haworth*, 300 U. S. 227, 240, leaving "substantive rights unchanged," *Beacon Theatres, Inc.* v. *Westover*, 359 U. S. 500, 509; and third, "the burden of proof" is a "'substantive' aspect of a claim," *Raleigh* v. *Illinois Dept. of Revenue*, 530 U. S. 15, 20–21. Practical considerations lead to the same conclusion. Shifting the burden based on the form of the action could create postlitigation uncertainty about a patent's scope. It may also create unnecessary complexity by compelling a licensee to prove a negative. Finally, burden shifting is difficult to reconcile with the Declaratory Judgment Act's purpose of ameliorating the "dilemma" posed by "putting" one challenging a patent's scope "to the choice between abandoning his rights or risking" suit, *MedImmune, Inc.* v. *Genentech, Inc.*, 549 U. S. 118, 129. To the extent that the Federal Circuit's burden shifting rule makes the declaratory judgment procedure disadvantageous, that rule recreates the dilemma that the Declaratory Judgment Act sought to avoid. Pp. 198–201.

(b) Several arguments to the contrary are unconvincing. First, *Schaffer* v. *Weast*, 546 U. S. 49, which noted the "ordinary default rule" that "plaintiffs" have the "risk of failing to prove their claims," does not support the Federal Circuit's conclusion. *Schaffer* was not a declaratory judgment case, and it described exceptions to its basic burden of proof rule. For reasons explained in this case, declaratory judgment suits like this one are an exception to *Schaffer*'s default rule. Second, the fact that the Federal Circuit limited its holding to the circumstance where a license forecloses an infringement counterclaim by a patentee cannot, by itself, show that the holding is legally justified. Third, contrary to one *amicus*' concern that this Court's holding will permit licensees to force patent holders into full-blown infringement litigation, such

litigation can occur only when there is a genuine and sufficiently "immedia[te]" dispute about a patent's validity or application, *MedImmune*, *supra*, at 127. Here, Mirowski set this dispute in motion by accusing Medtronic of infringement, and there is no convincing reason why burden of proof law should favor the patentee. General considerations relating to the public interest in maintaining a well-functioning patent system are, at most, in balance, and do not favor changing the ordinary burden of proof rule. Pp. 201–203.

695 F. 3d 1266, reversed and remanded.

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

Seth P. Waxman argued the cause for petitioner. With him on the briefs were *Martin R. Lueck*, *Jan M. Conlin*, *Stacie E. Oberts*, *Paul R. Q. Wolfson*, and *Mark C. Fleming*.

Curtis E. Gannon argued the cause for the United States as *amicus curiae* urging reversal. With him on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Delery*, *Deputy Solicitor General Stewart*, *Scott R. McIntosh*, *Daniel Tenny*, *Michael S. Forman*, and *William LaMarca*.

Arthur I. Neustadt argued the cause for respondent. With him on the brief were *Thomas J. Fisher*, *John F. Presper*, and *Sidney J. Silver*.*

JUSTICE BREYER delivered the opinion of the Court.

A patentee ordinarily bears the burden of proving infringement. *Agawam Co.* v. *Jordan*, 7 Wall. 583, 609 (1869). This case asks us to decide whether the burden of proof shifts when the patentee is a defendant in a declaratory judgment action, and the plaintiff (the potential infringer) seeks

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*Briefs of *amici curiae* urging affirmance were filed for the Intellectual Property Owners Association by *Gary M. Hoffman*, *Richard F. Phillips*, and *Kevin H. Rhodes*; and for Koninklijke Philips, N. V., by *Jack E. Haken* and *Michael Fuerch*.

Briefs of *amici curiae* were filed for Legal Scholars by *Michael Simons*; and for Tessera Technologies, Inc., by *Roman Melnik* and *Kenneth Weatherwax*.

a judgment that he does *not* infringe the patent. We hold that, when a licensee seeks a declaratory judgment against a patentee to establish that there is no infringement, the burden of proving infringement remains with the patentee. We reverse the Federal Circuit's determination to the contrary.

I

A

We set forth a simplified version of the facts. The parties are Medtronic, Inc., a firm that (among other things) designs, makes, and sells medical devices, and Mirowski Family Ventures, LLC, a firm that owns patents relating to implantable heart stimulators. In 1991 Medtronic and Mirowski entered into an agreement permitting Medtronic to practice certain Mirowski patents in exchange for royalty payments.

In less simplified form: Mirowski entered into a license agreement with Eli Lilly & Co., which then sublicensed the Mirowski patents to Medtronic. Guidant Corp. is Eli Lilly's successor in interest. For present purposes we shall ignore Eli Lilly, Guidant, and other parties on Mirowski's side, using "Mirowski" to refer to any and all of them.

The 1991 agreement also provided that, if Mirowski gave notice to Medtronic that a new Medtronic product "infringe[d]" a Mirowski patent, Medtronic had a choice. App. 13. Medtronic could simply "cure the nonpayment of royalties." *Ibid.* Or it could pay royalties and, at the same time, "challenge" the "assertion of infringement of any of the Mirowski patents through a Declaratory Judgment action." *Ibid.* Medtronic, of course, might just ignore the agreement and decide not to pay royalties at all, in which case Mirowski would have "the right to terminate the [l]icense," *ibid.*, and, if it wished, bring an infringement action.

In 2006 the parties entered into a further agreement that slightly modified the procedure for resolving disputes. If Medtronic, having received "timely written notice of in-

fringement," chose to pursue a declaratory judgment action "challenging infringement," it could "accumulate disputed royalties" in an escrow account. *Id.*, at 24, 27. The prevailing party in the declaratory judgment action would receive the royalties. *Id.*, at 28.

In 2007 the parties found themselves in the midst of an "infringement" dispute. Mirowski gave Medtronic notice that it believed seven new Medtronic products violated various claims contained in two of its patents (related to devices that cause the heart's ventricles to contract simultaneously as the heart beats). Medtronic thought that its products did not infringe Mirowski's patents, either because the products fell outside the scope of the patent claims or because the patents were invalid.

B

In 2007 Medtronic brought this declaratory judgment action in Federal District Court in Delaware. It sought a declaration that its products did not infringe Mirowski's patents and that the patents were invalid. But, as its agreement with Mirowski provided, Medtronic paid all the relevant royalties into an escrow account.

The District Court recognized that Mirowski was the defendant in the action. But it nonetheless believed that Mirowski, "[a]s the part[y] asserting infringement," bore the burden of proving infringement. *Medtronic, Inc.* v. *Boston Scientific Corp.*, 777 F. Supp. 2d 750, 766 (Del. 2011); see *Under Sea Industries, Inc.* v. *Dacor Corp.*, 833 F. 2d 1551, 1557 (CA Fed. 1987) ("The burden always is on the patentee to show infringement"). After a bench trial, the court found that Mirowski had not proved infringement, either directly or under the doctrine of equivalents. And since Mirowski, the patentee, bore the burden of proof, it lost. 777 F. Supp. 2d, at 767–770.

The Court of Appeals for the Federal Circuit considered the burden of proof question, and it came to the opposite conclusion. It held that Medtronic, the declaratory judg-

ment plaintiff, bore the burden. It acknowledged that normally the patentee, not the accused infringer, bears the burden of proving infringement, and that the burden normally will not "shift" even when the patentee is "a counterclaiming defendant in a declaratory judgment action." 695 F. 3d 1266, 1272 (2012). Nonetheless, the Court of Appeals believed that a different rule applies where that patentee is a declaratory judgment defendant *and*, like Mirowski, that patentee/defendant is "foreclosed" from asserting an "infringement counterclaim" by the "continued existence of a license." *Id.*, at 1274. In that case, the Court of Appeals held, the party "seeking a declaratory judgment of noninfringement," namely, Medtronic, "bears the burden of persuasion." *Ibid.*

Medtronic sought certiorari, asking us to review the Federal Circuit's burden of proof rule. In light of the importance of burdens of proof in patent litigation, we granted the petition.

II

We begin with a jurisdictional matter. An *amicus* claims that we must vacate the Federal Circuit's decision because that court lacked subject-matter jurisdiction. *Amicus* agrees with the parties that 28 U. S. C. § 1338(a) gives federal district courts exclusive jurisdiction over "any civil action arising under any Act of Congress *relating to patents*." (Emphasis added.) Moreover, the version of § 1295(a)(1) governing this appeal gives the Federal Circuit exclusive appellate jurisdiction over any case where jurisdiction in the district court "was based, in whole or in part, on section 1338." But, *amicus* says, in determining whether this case is a "civil action arising under" an "Act of Congress relating to patents," we must look to the nature of the action that the declaratory judgment defendant, namely, the patentee, Mirowski, could have brought in the absence of a declaratory judgment. And that action, *amicus* adds (in its most significant argument against jurisdiction), would not be a patent infringe-

ment action but, rather, an action for damages for *breach of contract*, namely, an action for breach of the Mirowski-Medtronic licensing contract, in which patent infringement is the central issue. Brief for Tessera Technologies, Inc., as *Amicus Curiae* 2–3.

We agree with *amicus* that the Declaratory Judgment Act does not "extend" the "jurisdiction" of the federal courts. *Skelly Oil Co.* v. *Phillips Petroleum Co.*, 339 U. S. 667, 671 (1950). We also agree that federal courts, when determining declaratory judgment jurisdiction, often look to the "character of the threatened action." *Public Serv. Comm'n of Utah* v. *Wycoff Co.*, 344 U. S. 237, 248 (1952). That is to say, they ask whether "a coercive action" brought by "the declaratory judgment defendant" (here Mirowski) "would necessarily present a federal question." *Franchise Tax Bd. of Cal.* v. *Construction Laborers Vacation Trust for Southern Cal.*, 463 U. S. 1, 19 (1983).

But we do not agree with *amicus*' characterization of the "threatened" or "coercive" action that Mirowski might have brought. The patent licensing agreement specifies that, if Medtronic stops paying royalties, Mirowski can terminate the contract and bring an ordinary patent infringement action. Such an action would arise under federal patent law because "federal patent law creates the cause of action." *Christianson* v. *Colt Industries Operating Corp.*, 486 U. S. 800, 809 (1988).

Amicus says that an infringement suit would be unlikely. But that is not the relevant question. The relevant question concerns the nature of the threatened action in the absence of the declaratory judgment suit. Medtronic believes—and seeks to establish in this declaratory judgment suit—that it does not owe royalties because its products are noninfringing. If Medtronic were to act on that belief (by not paying royalties and not bringing a declaratory judgment action), Mirowski could terminate the license and bring an ordinary federal patent law action for infringement. See Brief for

Respondent 48 (acknowledging that if Medtronic had "chosen not to pay the royalties . . . it would have subjected itself to a suit for infringement"). Consequently this declaratory judgment action, which avoids that threatened action, also "arises under" federal patent law. See *Franchise Tax Bd.*, *supra*, at 19; *Wycoff Co.*, *supra*, at 248. See also *MedImmune, Inc.* v. *Genentech, Inc.*, 549 U. S. 118, 128 (2007) (concluding that Article III's case-or-controversy requirement was satisfied where a patent licensee faced the threat of suit if it ceased making payments under a license agreement, notwithstanding that the licensee's continued royalty payments rendered the prospect of such a suit "remote, if not nonexistent").

For this reason we believe that the hypothetical threatened action is properly characterized as an action "arising under an Act of Congress relating to patents." 28 U. S. C. § 1338(a).

III

We now turn to the question presented. A patent licensee paying royalties into an escrow account under a patent licensing agreement seeks a declaratory judgment that some of its products are not covered by or do not infringe the patent, and that it therefore does not owe royalties for those products. In that suit, who bears the burden of proof or, to be more precise, the burden of persuasion? Must the patentee prove infringement or must the licensee prove noninfringement? In our view, the burden of persuasion is with the patentee, just as it would be had the patentee brought an infringement suit.

A

Simple legal logic, resting upon settled case law, strongly supports our conclusion. It is well established that the burden of proving infringement generally rests upon the patentee. See, *e. g.*, *Imhaeuser* v. *Buerk*, 101 U. S. 647, 662 (1880) ("[T]he burden to prove infringement never shifts [to

the alleged infringer] if the charge is denied in the plea or answer"); *Agawam Co.*, 7 Wall., at 609 ("Infringement is an affirmative allegation made by the complainant, and the burden of proving it is upon him . . . "). See also *Under Sea Industries*, 833 F. 2d, at 1557 ("The burden always is on the patentee to show infringement"); 5B D. Chisum, Patents § 18.06[1][a], p. 18–1180 (2007) ("[T]he burden of proof on factual issues relating to infringement rests upon the patent owner").

We have long considered "the operation of the Declaratory Judgment Act" to be only "procedural," *Aetna Life Ins. Co.* v. *Haworth*, 300 U. S. 227, 240 (1937), leaving "substantive rights unchanged," *Beacon Theatres, Inc.* v. *Westover*, 359 U. S. 500, 509 (1959). See also *Vaden* v. *Discover Bank*, 556 U. S. 49, 70, n. 19 (2009); *Skelly Oil Co.*, *supra*, at 674 (noting the "limited procedural purpose of the Declaratory Judgment Act").

And we have held that "the burden of proof" is a "'substantive' aspect of a claim." *Raleigh* v. *Illinois Dept. of Revenue*, 530 U. S. 15, 20–21 (2000); *Director, Office of Workers' Compensation Programs* v. *Greenwich Collieries*, 512 U. S. 267, 271 (1994) ("[T]he assignment of the burden of proof is a rule of substantive law . . . "); *Garrett* v. *Moore-McCormack Co.*, 317 U. S. 239, 249 (1942) ("[T]he burden of proof . . . [is] part of the very substance of [the plaintiff's] claim and cannot be considered a mere incident of a form of procedure").

Taken together these three legal propositions indicate that, in a licensee's declaratory judgment action, the burden of proving infringement should remain with the patentee.

Several practical considerations lead to the same conclusion. To shift the burden depending upon the form of the action could create postlitigation uncertainty about the scope of the patent. Suppose the evidence is inconclusive, and an alleged infringer loses his declaratory judgment action because he failed to prove noninfringement. The alleged in-

fringer, or others, might continue to engage in the same allegedly infringing behavior, leaving it to the patentee to bring an infringement action. If the burden shifts, the patentee might *lose* that action because, the evidence being inconclusive, he failed to prove infringement. So, both sides might lose as to infringement, leaving the infringement question undecided, creating uncertainty among the parties and others who seek to know just what products and processes they are free to use.

The example is not fanciful. The Restatement (Second) of Judgments says that relitigation of an issue (say, infringement) decided in one suit "is not precluded" in a subsequent suit where the burden of persuasion "has shifted" from the "party against whom preclusion is sought . . . to his adversary." Restatement (Second) of Judgments § 28(4) (1980). Rather, the

> "[f]ailure of one party to carry the burden of persuasion on an issue should not establish the issue in favor of an adversary who otherwise would have the burden of persuasion on that issue in later litigation." 18 C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 4422, p. 592 (2d ed. 2002).

Thus the declaratory judgment suit in the example above would have failed to achieve its object: to provide "an immediate and definitive determination of the legal rights of the parties." *Aetna*, *supra*, at 241.

Moreover, to shift the burden can, at least on occasion, create unnecessary complexity by making it difficult for the licensee to understand upon just what theory the patentee's infringement claim rests. A complex patent can contain many pages of claims and limitations. A patent holder is in a better position than an alleged infringer to know, and to be able to point out, just where, how, and why a product (or process) infringes a claim of that patent. Until he does so, however, the alleged infringer may have to work in the dark,

seeking, in his declaratory judgment complaint, to negate every conceivable infringement theory.

Finally, burden shifting here is difficult to reconcile with a basic purpose of the Declaratory Judgment Act. In *MedImmune, Inc.* v. *Genentech, Inc.*, a case that similarly concerned a patent licensee that brought a declaratory judgment action after the patentee accused it of infringement, we wrote that the "'very purpose'" of that Act is to "'ameliorate'" the "dilemma" posed by "putting" one who challenges a patent's scope "to the choice between abandoning his rights or risking" suit. 549 U. S., at 129 (quoting *Abbott Laboratories* v. *Gardner*, 387 U. S. 136, 152 (1967)). In the absence of the declaratory judgment procedure, Medtronic would face the precise dilemma that *MedImmune* describes. Either Medtronic would have to abandon its right to challenge the scope of Mirowski's patents or it would have to stop paying royalties, risk losing an ordinary patent infringement lawsuit, and thereby risk liability for treble damages and attorney's fees as well as injunctive relief. See 35 U. S. C. §§ 283–285 (providing for injunctive relief, treble damages, and—in "exceptional cases"—attorney's fees as remedies for patent infringement). As in *MedImmune*, the declaratory judgment action rescues Medtronic from this dilemma.

The Federal Circuit's burden shifting rule does not deprive Medtronic of the right to seek a declaratory judgment. But it does create a significant obstacle to use of that action. It makes the declaratory judgment procedure—compared to, say, just refusing to pay royalties—disadvantageous. To that extent it recreates the dilemma that the Declaratory Judgment Act sought to avoid. As we have made clear (and as we explain below), we are unaware of any strong reason for creating that obstacle.

B

We are not convinced by the arguments raised to the contrary. First, the Federal Circuit thought it had found support in a recent case of this Court, *Schaffer* v. *Weast*, 546

U. S. 49 (2005). In that case we referred to the "ordinary default rule" as placing upon the "plaintiffs" the "risk of failing to prove their claims." *Id.*, at 56. We added that that is because the plaintiffs are normally the parties "seeking relief." *Id.*, at 58. And Medtronic, not Mirowski, is the declaratory judgment "plaintif[f]" here.

Schaffer, however, was not a declaratory judgment case. And *Schaffer* described exceptions to its basic burden of proof rule. *E. g.*, *id.*, at 57 (when an element of a claim "can fairly be characterized as [an] affirmative defens[e]," the burden of proof "may be shifted to [the] defendants"); *id.*, at 60 ("'[T]he ordinary rule, based on considerations of fairness, does not place the burden upon a litigant of establishing facts peculiarly within the knowledge of his adversary'" (quoting *United States* v. *New York, N. H. & H. R. Co.*, 355 U. S. 253, 256, n. 5 (1957))). For the reasons we have set forth in Part III–A, *supra*, declaratory judgment suits like the one at issue here constitute a further exception to the basic rule *Schaffer* described.

Second, the Federal Circuit emphasized that its holding applied only in "the limited circumstance when an infringement counterclaim by a patentee is foreclosed by the continued existence of a license." 695 F. 3d, at 1274. The fact that the Federal Circuit's opinion is limited, however, does not support its conclusion. The "limited circumstance" it described is often present when a patent licensee faces an ordinary but disputed claim of infringement. And that "circumstance" is virtually identical to *MedImmune*, where we found a declaratory judgment action constitutionally permissible. In any event, the fact that a rule's scope is limited cannot, by itself, show that the rule is legally justified.

Third, an *amicus* supporting Mirowski fears that our holding, unlike the Federal Circuit's rule, will "burden . . . patent owners" by permitting "a licensee . . . —at its sole discretion—[to] force the patentee into full-blown patent-infringement litigation." Brief for Intellectual Property

Owners Association 9. The short answer to this argument, however, is that litigation can occur only in the presence of a genuine dispute, "'of sufficient immediacy and reality,'" about the patent's validity or its application. *MedImmune*, *supra*, at 127 (quoting *Maryland Casualty Co.* v. *Pacific Coal & Oil Co.*, 312 U. S. 270, 273 (1941)). Indeed, it was Mirowski that set the present dispute in motion by accusing Medtronic of infringement. And in such an instance, we see no convincing reason why burden of proof law should favor the patentee.

The public interest, of course, favors the maintenance of a well-functioning patent system. But the "public" also has a "paramount interest in seeing that patent monopolies . . . are kept within their legitimate scope." *Precision Instrument Mfg. Co.* v. *Automotive Maintenance Machinery Co.*, 324 U. S. 806, 816 (1945). A patentee "should not be . . . allowed to exact royalties for the use of an idea . . . that is beyond the scope of the patent monopoly granted." *Blonder-Tongue Laboratories, Inc.* v. *University of Ill. Foundation*, 402 U. S. 313, 349–350 (1971). And "[l]icensees may often be the only individuals with enough economic incentive" to litigate questions of a patent's scope. *Lear, Inc.* v. *Adkins*, 395 U. S. 653, 670 (1969). The general public interest considerations are, at most, in balance. They do not favor a change in the ordinary rule imposing the burden of proving infringement upon the patentee.

For these reasons the judgment of the Federal Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

Syllabus

BURRAGE *v.* UNITED STATES

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

No. 12–7515. Argued November 12, 2013—Decided January 27, 2014

Long-time drug user Banka died following an extended binge that included using heroin purchased from petitioner Burrage. Burrage pleaded not guilty to a superseding indictment alleging, *inter alia*, that he had unlawfully distributed heroin and that "death . . . resulted from the use of th[at] substance"—thus subjecting Burrage to a 20-year mandatory minimum sentence under the penalty enhancement provision of the Controlled Substances Act, 21 U. S. C. § 841(b)(1)(C). After medical experts testified at trial that Banka might have died even if he had not taken the heroin, Burrage moved for a judgment of acquittal, arguing that Banka's death could only "result from" heroin use if there was evidence that heroin was a but-for cause of death. The court denied the motion and, as relevant here, instructed the jury that the Government only had to prove that heroin was a contributing cause of death. The jury convicted Burrage, and the court sentenced him to 20 years. In affirming, the Eighth Circuit upheld the District Court's jury instruction.

Held: At least where use of the drug distributed by the defendant is not an independently sufficient cause of the victim's death or serious bodily injury, a defendant cannot be liable for penalty enhancement under § 841(b)(1)(C) unless such use is a but-for cause of the death or injury. Pp. 208–219.

(a) Section 841(b)(1)(C)'s "death results" enhancement, which increased the minimum and maximum sentences to which Burrage was exposed, is an element that must be submitted to the jury and found beyond a reasonable doubt. See, *e. g.*, *Alleyne* v. *United States*, 570 U. S. 99, 115–116. Pp. 208–210.

(b) Because the Controlled Substances Act does not define "results from," the phrase should be given its ordinary meaning. See *Asgrow Seed Co.* v. *Winterboer*, 513 U. S. 179, 187. Ordinarily, that phrase imposes a requirement of actual causality, *i. e.*, proof "'that the harm would not have occurred' in the absence of—that is, but for—the defendant's conduct." *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 346–347. Similar statutory phrases—"because of," see *id.*, at 352, "'based on,'" *Safeco Ins. Co. of America* v. *Burr*, 551 U. S. 47, 63, and "'by reason of,'" *Gross* v. *FBL Financial Services, Inc.*, 557

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U. S. 167, 176—have been read to impose a but-for causation requirement. This Court declines to adopt the Government's permissive interpretation of "results from" to mean that use of a drug distributed by the defendant need only contribute to an aggregate force, *e. g.*, mixed-drug intoxication, that is itself a but-for cause of death. There is no need to address a special rule developed for cases in which multiple sufficient causes independently, but concurrently, produce death, since there was no evidence that Banka's heroin use was an independently sufficient cause of his death. And though Congress could have written § 841(b)(1)(C) to make an act or omission a cause-in-fact if it was a "substantial" or "contributing" factor in producing death, Congress chose instead to use language that imports but-for causality. Pp. 210–216.

(c) Whether adopting the but-for causation requirement or the Government's interpretation raises policy concerns is beside the point, for the Court's role is to apply the statute as written. Pp. 216–218.

687 F. 3d 1015, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, BREYER, and KAGAN, JJ., joined, and in which ALITO, J., joined as to all but Part III–B. GINSBURG, J., filed an opinion concurring in the judgment, in which SOTOMAYOR, J., joined, *post*, p. 219.

Angela L. Campbell, by appointment of the Court, 570 U. S. 903, argued the cause for petitioner. With her on the briefs were *Gary Dickey, Jr.*, *Jeffrey T. Green*, and *Ryan C. Morris*.

Benjamin J. Horwich argued the cause for the United States. With him on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Raman*, *Deputy Solicitor Dreeben*, and *Stephan E. Oestreicher, Jr.**

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*Briefs of *amici curiae* urging reversal were filed for Families Against Mandatory Minimums by *Gregory G. Rapawy*, *Caitlin S. Hall*, *Mary Price*, and *Peter Goldberger*; and for the National Association of Criminal Defense Lawyers by *John D. Cline* and *Jonathan D. Hacker*.

A brief of *amici curiae* urging affirmance was filed for the State of Alaska et al. by *Michael C. Geraghty*, Attorney General of Alaska, *Richard Svobodny*, Deputy Attorney General, and *Eric A. Johnson*, Special Assistant Attorney General, and by the Attorneys General for their respective States as follows: *John W. Suthers* of Colorado, *David M. Louie* of Hawaii, *Derek Schmidt* of Kansas, *Gary K. King* of New Mexico, *Marty*

JUSTICE SCALIA delivered the opinion of the Court.*

The Controlled Substances Act imposes a 20-year mandatory minimum sentence on a defendant who unlawfully distributes a Schedule I or II drug, when "death or serious bodily injury results from the use of such substance." 21 U. S. C. § 841(a)(1), (b)(1)(A)–(C) (2012 ed.). We consider whether the mandatory-minimum provision applies when use of a covered drug supplied by the defendant contributes to, but is not a but-for cause of, the victim's death or injury.

I

Joshua Banka, a long-time drug user, died on April 15, 2010, following an extended drug binge. The episode began on the morning of April 14, when Banka smoked marijuana at a former roommate's home. Banka stole oxycodone pills from the roommate before departing and later crushed, cooked, and injected the oxycodone. Banka and his wife, Tammy Noragon Banka (Noragon), then met with petitioner Marcus Burrage and purchased one gram of heroin from him. Banka immediately cooked and injected some of the heroin and, after returning home, injected more heroin between midnight and 1 a.m. on April 15. Noragon went to sleep at around 5 a.m., shortly after witnessing Banka prepare another batch of heroin. When Noragon woke up a few hours later, she found Banka dead in the bathroom and called 911. A search of the couple's home and car turned up syringes, 0.59 grams of heroin, alprazolam and clonazepam tablets, oxycodone pills, a bottle of hydrocodone, and other drugs.

Burrage pleaded not guilty to a superseding indictment alleging two counts of distributing heroin in violation of § 841(a)(1). Only one of those offenses, count 2, is at issue here. (Count 1 related to an alleged distribution of heroin

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J. Jackley of South Dakota, *Robert E. Cooper, Jr.*, of Tennessee, *J. B. Van Hollen* of Wisconsin, and *Peter K. Michael* of Wyoming.

*JUSTICE ALITO joins all but Part III–B of this opinion.

five months earlier than the sale to Banka.) Count 2 alleged that Burrage unlawfully distributed heroin on April 14, 2010, and that "death . . . resulted from the use of th[at] substance"—thus subjecting Burrage to the 20-year mandatory minimum of § 841(b)(1)(C).

Two medical experts testified at trial regarding the cause of Banka's death. Dr. Eugene Schwilke, a forensic toxicologist, determined that multiple drugs were present in Banka's system at the time of his death, including heroin metabolites, codeine, alprazolam, clonazepam metabolites, and oxycodone. (A metabolite is a "product of metabolism," Webster's New International Dictionary 1544 (2d ed. 1950), or, as the Court of Appeals put it, "what a drug breaks down into in the body," 687 F. 3d 1015, 1018, n. 2 (CA8 2012).) Although morphine, a heroin metabolite, was the only drug present at a level above the therapeutic range—*i. e.*, the concentration normally present when a person takes a drug as prescribed—Dr. Schwilke could not say whether Banka would have lived had he not taken the heroin. Dr. Schwilke nonetheless concluded that heroin "was a contributing factor" in Banka's death, since it interacted with the other drugs to cause "respiratory and/or central nervous system depression." App. 196. The heroin, in other words, contributed to an overall effect that caused Banka to stop breathing. Dr. Jerri McLemore, an Iowa state medical examiner, came to similar conclusions. She described the cause of death as "mixed drug intoxication" with heroin, oxycodone, alprazolam, and clonazepam all playing a "contributing" role. *Id.*, at 157. Dr. McLemore could not say whether Banka would have lived had he not taken the heroin, but observed that Banka's death would have been "[v]ery less likely." *Id.*, at 171.

The District Court denied Burrage's motion for a judgment of acquittal, which argued that Banka's death did not "result from" heroin use because there was no evidence that heroin was a but-for cause of death. *Id.*, at 30. The court

also declined to give Burrage's proposed jury instructions regarding causation. One of those instructions would have required the Government to prove that heroin use "was the proximate cause of [Banka's] death." *Id.*, at 236. Another would have defined proximate cause as "a cause of death that played a substantial part in bringing about the death," meaning that "[t]he death must have been either a direct result of or a reasonably probable consequence of the cause and except for the cause the death would not have occurred." *Id.*, at 238. The court instead gave an instruction requiring the Government to prove "that the heroin distributed by the Defendant was a contributing cause of Joshua Banka's death." *Id.*, at 241–242. The jury convicted Burrage on both counts, and the court sentenced him to 20 years' imprisonment, consistent with § 841(b)(1)(C)'s prescribed minimum.

The Court of Appeals for the Eighth Circuit affirmed Burrage's convictions. 687 F. 3d 1015. As to the causation-in-fact element of count 2, the court held that the District Court's contributing-cause instruction was consistent with its earlier decision in *United States* v. *Monnier*, 412 F. 3d 859, 862 (CA8 2005). See 687 F. 3d, at 1021. As to proximate cause, the court held that Burrage's proposed instructions "d[id] not correctly state the law" because "a showing of 'proximate cause' is not required." *Id.*, at 1020 (quoting *United States* v. *McIntosh*, 236 F. 3d 968, 972–973 (CA8 2001)).

We granted certiorari on two questions: Whether the defendant may be convicted under the "death results" provision (1) when the use of the controlled substance was a "contributing cause" of the death, and (2) without separately instructing the jury that it must decide whether the victim's death by drug overdose was a foreseeable result of the defendant's drug-trafficking offense. 569 U. S. 957 (2013).

II

As originally enacted, the Controlled Substances Act, 84 Stat. 1242, 21 U. S. C. § 801 *et seq.*, "tied the penalties for

drug offenses to both the type of drug and the quantity involved, with no provision for mandatory minimum sentences." *DePierre* v. *United States*, 564 U. S. 70, 74 (2011). That changed in 1986 when Congress enacted the Anti-Drug Abuse Act, 100 Stat. 3207, which redefined the offense categories, increased the maximum penalties and set minimum penalties for many offenders, including the "death results" enhancement at issue here. See *id.*, at 3207–4. With respect to violations involving distribution of a Schedule I or II substance (the types of drugs defined as the most dangerous and addictive[1]) the Act imposes sentences ranging from 10 years to life imprisonment for large-scale distributions, § 841(b)(1)(A), from 5 to 40 years for medium-scale distributions, § 841(b)(1)(B), and not more than 20 years for smaller distributions, § 841(b)(1)(C), the type of offense at issue here. These default sentencing rules do not apply, however, when "death or serious bodily injury results from the use of [the distributed] substance." § 841(b)(1)(A)–(C). In those instances, the defendant "shall be sentenced to a term of imprisonment which . . . shall be not less than twenty years or more than life," a substantial fine, "or both."[2] *Ibid.*

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[1] Schedule I drugs, such as heroin, have "a high potential for abuse," "no currently accepted medical use in treatment in the United States," and "a lack of accepted safety" even "under medical supervision." 21 U. S. C. § 812(b)(1). Schedule II drugs, such as methamphetamine, likewise have "a high potential for abuse" and a propensity to cause "severe psychological or physical dependence" if misused. § 812(b)(2).

[2] Although this language, read literally, suggests that courts may impose a fine *or* a prison term, it is undisputed here that the "death results" provision mandates a prison sentence. Courts of Appeals have concluded, in effect, that the "or" is a scrivener's error, see, *e. g.*, *United States* v. *Musser*, 856 F. 2d 1484, 1486 (CA11 1988) (*per curiam*). The best evidence of that is the concluding sentence of § 841(b)(1)(C), which states that a court "shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph *which provide for a mandatory term of imprisonment if death or serious bodily injury results*." (Emphasis added.)

Because the "death results" enhancement increased the minimum and maximum sentences to which Burrage was exposed, it is an element that must be submitted to the jury and found beyond a reasonable doubt. See *Alleyne* v. *United States*, 570 U. S. 99, 115–116 (2013); *Apprendi* v. *New Jersey*, 530 U. S. 466, 490 (2000). Thus, the crime charged in count 2 of Burrage's superseding indictment has two principal elements: (i) knowing or intentional distribution of heroin, § 841(a)(1),[3] and (ii) death caused by ("resulting from") the use of that drug, § 841(b)(1)(C).

III

A

The law has long considered causation a hybrid concept, consisting of two constituent parts: actual cause and legal cause. H. Hart & A. Honoré, Causation in the Law 104 (1959). When a crime requires "not merely conduct but also a specified result of conduct," a defendant generally may not be convicted unless his conduct is "both (1) the actual cause, and (2) the 'legal' cause (often called the 'proximate cause') of the result." 1 W. LaFave, Substantive Criminal Law § 6.4(a), pp. 464–466 (2d ed. 2003) (hereinafter LaFave); see also ALI, Model Penal Code § 2.03, p. 25 (1985). Those two categories roughly coincide with the two questions on which we granted certiorari. We find it necessary to decide only the first: whether the use of heroin was the actual cause of Banka's death in the sense that § 841(b)(1)(C) requires.

The Controlled Substances Act does not define the phrase "results from," so we give it its ordinary meaning. See *Asgrow Seed Co.* v. *Winterboer*, 513 U. S. 179, 187 (1995). A thing "results" when it "[a]rise[s] as an effect, issue, or outcome *from* some action, process, or design." 2 The New

[3] Violation of § 841(a)(1) is thus a lesser included offense of the crime charged in count 2. It is undisputed that Burrage is guilty of that lesser included offense.

Shorter Oxford English Dictionary 2570 (1993). "Results from" imposes, in other words, a requirement of actual causality. "In the usual course," this requires proof "'that the harm would not have occurred' in the absence of—that is, but for—the defendant's conduct." *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 346–347 (2013) (quoting Restatement of Torts § 431, Comment *a* (1934)). The Model Penal Code reflects this traditional understanding; it states that "[c]onduct is the cause of a result" if "it is an antecedent but for which the result in question would not have occurred." § 2.03(1)(a). That formulation represents "*the minimum* requirement for a finding of causation when a crime is defined in terms of conduct causing a particular result." *Id.*, Explanatory Note (emphasis added); see also *United States* v. *Hatfield*, 591 F. 3d 945, 948 (CA7 2010) (but for "is the minimum concept of cause"); *Callahan* v. *Cardinal Glennon Hospital*, 863 S. W. 2d 852, 862 (Mo. 1993) (same).

Thus, "where A shoots B, who is hit and dies, we can say that A [actually] caused B's death, since but for A's conduct B would not have died." LaFave 467–468 (italics omitted). The same conclusion follows if the predicate act combines with other factors to produce the result, so long as the other factors alone would not have done so—if, so to speak, it was the straw that broke the camel's back. Thus, if poison is administered to a man debilitated by multiple diseases, it is a but-for cause of his death even if those diseases played a part in his demise, so long as, without the incremental effect of the poison, he would have lived. See, *e. g.*, *State* v. *Frazier*, 339 Mo. 966, 974–975, 98 S. W. 2d 707, 712–713 (1936).

This but-for requirement is part of the common understanding of cause. Consider a baseball game in which the visiting team's leadoff batter hits a home run in the top of the first inning. If the visiting team goes on to win by a score of 1 to 0, every person competent in the English language and familiar with the American pastime would agree

that the victory resulted from the home run. This is so because it is natural to say that one event is the outcome or consequence of another when the former would not have occurred but for the latter. It is beside the point that the victory also resulted from a host of *other* necessary causes, such as skillful pitching, the coach's decision to put the leadoff batter in the lineup, and the league's decision to schedule the game. By contrast, it makes little sense to say that an event resulted from or was the outcome of some earlier action if the action merely played a nonessential contributing role in producing the event. If the visiting team wound up winning 5 to 2 rather than 1 to 0, one would be surprised to read in the sports page that the victory resulted from the leadoff batter's early, non-dispositive home run.

Where there is no textual or contextual indication to the contrary, courts regularly read phrases like "results from" to require but-for causality. Our interpretation of statutes that prohibit adverse employment action "because of" an employee's age or complaints about unlawful workplace discrimination is instructive. Last Term, we addressed Title VII's antiretaliation provision, which states in part:

> "It shall be an unlawful employment practice for an employer . . . to discriminate against any individual . . . *because* he has opposed any practice made an unlawful employment practice by this subchapter, or *because* he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter." 42 U. S. C. § 2000e–3(a) (2006 ed.) (emphasis added).

Given the ordinary meaning of the word "because," we held that § 2000e–3(a) "require[s] proof that the desire to retaliate was [a] but-for cause of the challenged employment action." *Nassar*, *supra*, at 352. The same result obtained in an earlier case interpreting a provision in the Age Discrimination in Employment Act that makes it "unlawful for an employer

. . . to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, *because of* such individual's age." 29 U. S. C. § 623(a)(1) (emphasis added). Relying on dictionary definitions of "[t]he words 'because of' "—which resemble the definition of "results from" recited above—we held that "[t]o establish a disparate-treatment claim under the plain language of [§ 623(a)(1)] . . . a plaintiff must prove that age was [a] 'but for' cause of the employer's adverse decision." *Gross* v. *FBL Financial Services, Inc.*, 557 U. S. 167, 176 (2009).[4]

Our insistence on but-for causality has not been restricted to statutes using the term "because of." We have, for instance, observed that "[i]n common talk, the phrase 'based on' indicates a but-for causal relationship," *Safeco Ins. Co. of America* v. *Burr*, 551 U. S. 47, 63 (2007), and that "the phrase, 'by reason of,' requires at least a showing of 'but for' causation," *Gross*, *supra*, at 176 (citing *Bridge* v. *Phoenix Bond & Indemnity Co.*, 553 U. S. 639, 653–654 (2008)). See also *Holmes* v. *Securities Investor Protection Corporation*, 503 U. S. 258, 265–268 (1992) (explaining that a statute permitting recovery for injuries suffered " 'by reason of' " the defendant's unlawful conduct "require[s] a showing that the defendant's violation . . . was," among other things, "a 'but for' cause of his injury"). State courts, which hear and decide the bulk of the Nation's criminal matters, usually interpret similarly worded criminal statutes in the same manner.

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[4] *Price Waterhouse* v. *Hopkins*, 490 U. S. 228 (1989), is not to the contrary. The three opinions of six Justices in that case did not eliminate the but-for-cause requirement imposed by the "because of" provision of 42 U. S. C. § 2000e–2(a), but allowed a showing that discrimination was a "motivating" or "substantial" factor to shift the burden of persuasion to the employer to establish the absence of but-for cause. See *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 347–351 (2013). Congress later amended the statute to dispense with but-for causality. Civil Rights Act of 1991, Tit. I, § 107(a), 105 Stat. 1075 (codified at 42 U. S. C. § 2000e–2(m)).

See, *e. g.*, *People* v. *Wood*, 276 Mich. App. 669, 671, 741 N. W. 2d 574, 575–578 (2007) (construing the phrase "[i]f the violation results in the death of another individual" to require proof of but-for causation (emphasis deleted)); *State* v. *Hennings*, 791 N. W. 2d 828, 833–835 (Iowa 2010) (statute prohibiting "'offenses . . . committed against a person or a person's property because of the person's race'" or other protected trait requires discriminatory animus to be a but-for cause of the offense); *State* v. *Richardson*, 295 N. C. 309, 322–323, 245 S. E. 2d 754, 763 (1978) (statute requiring suppression of evidence "'obtained as a result of'" police misconduct "requires, at a minimum," a but-for causal relationship between the misconduct and collection of the evidence).

In sum, it is one of the traditional background principles "against which Congress legislate[s]," *Nassar*, 570 U. S., at 347, that a phrase such as "results from" imposes a requirement of but-for causation. The Government argues, however, that distinctive problems associated with drug overdoses counsel in favor of dispensing with the usual but-for causation requirement. Addicts often take drugs in combination, as Banka did in this case, and according to the National Center for Injury Prevention and Control, at least 46 percent of overdose deaths in 2010 involved more than one drug. See Brief for United States 28–29. This consideration leads the Government to urge an interpretation of "results from" under which use of a drug distributed by the defendant need not be a but-for cause of death, nor even independently sufficient to cause death, so long as it contributes to an aggregate force (such as mixed-drug intoxication) that is itself a but-for cause of death.

In support of its argument, the Government can point to the undoubted reality that courts have not *always* required strict but-for causality, even where criminal liability is at issue. The most common (though still rare) instance of this occurs when multiple sufficient causes independently, but concurrently, produce a result. See *Nassar*, *supra*, at 346–

347; see also LaFave 467 (describing these cases as "unusual" and "numerically in the minority"). To illustrate, if "A stabs B, inflicting a fatal wound; while at the same moment X, acting independently, shoots B in the head . . . also inflicting [a fatal] wound; and B dies from the combined effects of the two wounds," A will generally be liable for homicide even though his conduct was not a but-for cause of B's death (since B would have died from X's actions in any event). *Id.*, at 468 (italics omitted). We need not accept or reject the special rule developed for these cases, since there was no evidence here that Banka's heroin use was an independently sufficient cause of his death. No expert was prepared to say that Banka would have died from the heroin use alone.

Thus, the Government must appeal to a second, less demanding (but also less well established) line of authority, under which an act or omission is considered a cause-in-fact if it was a "substantial" or "contributing" factor in producing a given result. Several state courts have adopted such a rule, see *State* v. *Christman*, 160 Wash. App. 741, 745, 249 P. 3d 680, 687 (2011); *People* v. *Jennings*, 50 Cal. 4th 616, 643, 237 P. 3d 474, 496 (2010); *People* v. *Bailey*, 451 Mich. 657, 676–678, 549 N. W. 2d 325, 334–336 (1996); *Commonwealth* v. *Osachuk*, 43 Mass. App. 71, 72–73, 681 N. E. 2d 292, 294 (1997), but the American Law Institute declined to do so in its Model Penal Code, see ALI, 39th Annual Meeting Proceedings 135–141 (1962); see also Model Penal Code § 2.03(1)(a). One prominent authority on tort law asserts that "a broader rule . . . has found general acceptance: The defendant's conduct is a cause of the event if it was a material element and a substantial factor in bringing it about." W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts § 41, p. 267 (5th ed. 1984) (footnote omitted). But the authors of that treatise acknowledge that, even in the tort context, "[e]xcept in the classes of cases indicated" (an apparent reference to the situation where each of two causes is independently effective) "no case has been

found where the defendant's act could be called a substantial factor when the event would have occurred without it." *Id.*, at 268. The authors go on to offer an alternative rule—functionally identical to the one the Government argues here—that "[w]hen the conduct of two or more actors is so related to an event that their combined conduct, viewed as a whole, is a but-for cause of the event, and application of the but-for rule to them individually would absolve all of them, the conduct of each is a cause in fact of the event." *Ibid.* Yet, as of 1984, "no judicial opinion ha[d] approved th[at] formulation." *Ibid.*, n. 40. The "death results" enhancement became law just two years later.

We decline to adopt the Government's permissive interpretation of § 841(b)(1). The language Congress enacted requires death to "result from" use of the unlawfully distributed drug, not from a combination of factors to which drug use merely contributed. Congress could have written § 841(b)(1)(C) to impose a mandatory minimum when the underlying crime "contributes to" death or serious bodily injury, or adopted a modified causation test tailored to cases involving concurrent causes, as five States have done, see Ala. Code § 13A–2–5(a) (2005); Ark. Code Ann. § 5–2–205 (2006); Me. Rev. Stat. Ann., Tit. 17–A, § 33 (2006); N. D. Cent. Code Ann. § 12.1–02–05 (Lexis 2012); Tex. Penal Code Ann. § 6.04 (West 2011). It chose instead to use language that imports but-for causality. Especially in the interpretation of a criminal statute subject to the rule of lenity, see *Moskal* v. *United States*, 498 U. S. 103, 107–108 (1990), we cannot give the text a meaning that is different from its ordinary, accepted meaning, and that disfavors the defendant.

B

The Government objects that the ordinary meaning of "results from" will "unduly limi[t] criminal responsibility" and "cannot be reconciled with sound policy." Brief for United States 24. We doubt that the requirement of but-for causa-

tion for this incremental punishment will prove a policy disaster. A cursory search of the Federal Reporter reveals that but-for causation is not nearly the insuperable barrier the Government makes it out to be. See, *e. g.*, *United States* v. *Krieger*, 628 F. 3d 857, 870–871 (CA7 2010) (affirming "death results" conviction based on expert testimony that, although the victim had several drugs in her system, the drug distributed by the defendant was a but-for cause of death); *United States* v. *Webb*, 655 F. 3d 1238, 1254–1255 (CA11 2011) (*per curiam*) (same). Moreover, even when the prosecution is unable to prove but-for causation, the defendant will still be liable for violating § 841(a)(1) and subject to a substantial default sentence under § 841(b)(1).

Indeed, it is more likely the Government's proposal "cannot be reconciled with sound policy," given the need for clarity and certainty in the criminal law. The judicial authorities invoking a "substantial" or "contributing" factor test in criminal cases differ widely in their application of it. Compare *Wilson* v. *State*, 24 S. W. 409, 410 (Tex. Crim. App. 1893) (an act is an actual cause if it "contributed materially" to a result, even if other concurrent acts would have produced that result on their own), with *Cox* v. *State*, 305 Ark. 244, 248, 808 S. W. 2d 306, 309 (1991) (causation cannot be found where other concurrent causes were clearly sufficient to produce the result and the defendant's act was clearly insufficient to produce it (applying Ark. Code Ann. § 5–2–205 (1987))).[5] Here the Government is uncertain about the precise application of the test that it proposes. Taken literally, its "contributing-cause" test would treat as a cause-in-fact every act or omission that makes a positive incremental con-

[5] Some cases apply what they call a "substantial factor" test only when multiple independently sufficient causes "operat[e] together to cause the result." *Eversley* v. *Florida*, 748 So. 2d 963, 967 (Fla. 1999); see also *Callahan* v. *Cardinal Glennon Hospital*, 863 S. W. 2d 852, 862–863 (Mo. 1993). We will not exaggerate the confusion by counting these as genuine "substantial factor" cases.

tribution, however small, to a particular result. See Brief for State of Alaska et al. as *Amici Curiae* 20; see also Black's Law Dictionary 250 (9th ed. 2009) (defining "contributing cause" as "[a] factor that—though not the primary cause—plays a part in producing a result"). But at oral argument the Government insisted that its test excludes causes that are "not important enough" or "too insubstantial." Tr. of Oral Arg. 28. Unsurprisingly, it could not specify how important or how substantial a cause must be to qualify. See *id.*, at 41–42. Presumably the lower courts would be left to guess. That task would be particularly vexing since the evidence in § 841(b)(1) cases is often expressed in terms of probabilities and percentages. One of the experts in this case, for example, testified that Banka's death would have been "[v]ery less likely" had he not used the heroin that Burrage provided. App. 171. Is it sufficient that use of a drug made the victim's death 50 percent more likely? Fifteen percent? Five? Who knows. Uncertainty of that kind cannot be squared with the beyond-a-reasonable-doubt standard applicable in criminal trials or with the need to express criminal laws in terms ordinary persons can comprehend. See *United States* v. *L. Cohen Grocery Co.*, 255 U. S. 81, 89–90 (1921).

But in the last analysis, these always-fascinating policy discussions are beside the point. The role of this Court is to apply the statute as it is written—even if we think some other approach might "'accor[d] with good policy.'" *Commissioner* v. *Lundy*, 516 U. S. 235, 252 (1996) (quoting *Badaracco* v. *Commissioner*, 464 U. S. 386, 398 (1984)). As we have discussed, it is written to require but-for cause.

* * *

We hold that, at least where use of the drug distributed by the defendant is not an independently sufficient cause of the victim's death or serious bodily injury, a defendant cannot be liable under the penalty enhancement provision of 21

U. S. C. § 841(b)(1)(C) unless such use is a but-for cause of the death or injury. The Eighth Circuit affirmed Burrage's conviction based on a markedly different understanding of the statute, see 687 F. 3d, at 1020–1024, and the Government concedes that there is no "evidence that Banka would have lived but for his heroin use," Brief for United States 33. Burrage's conviction with respect to count 2 of the superseding indictment is therefore reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE GINSBURG, with whom JUSTICE SOTOMAYOR joins, concurring in the judgment.

For reasons explained in my dissenting opinion in *University of Tex. Southwestern Medical Center* v. *Nassar*, 570 U. S. 338, 363 (2013), I do not read "because of" in the context of antidiscrimination laws to mean "solely because of." See *id.*, at 383–385. And I do not agree that words "appear[ing] in two or more legal rules, and so in connection with more than one purpose, ha[ve] and should have precisely the same scope in all of them." Cook, "Substance" and "Procedure" in the Conflict of Laws, 42 Yale L. J. 333, 337 (1933). But I do agree that "in the interpretation of a criminal statute subject to the rule of lenity," where there is room for debate, one should not choose the construction "that disfavors the defendant." *Ante*, at 216. Accordingly, I join the Court's judgment.

Syllabus

SANDIFER ET AL. *v.* UNITED STATES STEEL CORP.

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

No. 12–417. Argued November 4, 2013—Decided January 27, 2014

Petitioner Sandifer and others filed a putative collective action under the Fair Labor Standards Act of 1938, seeking backpay for time spent donning and doffing pieces of protective gear that they assert respondent United States Steel Corporation requires workers to wear because of hazards at its steel plants. U. S. Steel contends that this donning-and-doffing time, which would otherwise be compensable under the Act, is noncompensable under a provision of its collective-bargaining agreement with petitioners' union. That provision's validity depends on 29 U. S. C. § 203(*o*), which allows parties to collectively bargain over whether "time spent in changing clothes . . . at the beginning or end of each workday" must be compensated. The District Court granted U. S. Steel summary judgment in pertinent part, holding that petitioners' donning and doffing constituted "changing clothes" under § 203(*o*). It also assumed that any time spent donning and doffing items that were not "clothes" was "*de minimis*" and hence noncompensable. The Seventh Circuit affirmed.

Held: The time petitioners spend donning and doffing their protective gear is not compensable by operation of § 203(*o*). Pp. 224–236.

(a) This Court initially construed compensability under the Fair Labor Standards Act expansively. See, *e. g.*, *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U. S. 680. The Act was amended in 1949, however, to provide that the compensability of time spent "changing clothes or washing at the beginning or end of each workday" is a subject appropriately committed to collective bargaining, § 203(*o*). Whether petitioners' donning and doffing qualifies as "changing clothes" depends on the meaning of that statutory phrase. Pp. 224–227.

(b) The term "clothes," which is otherwise undefined, is "interpreted as taking [its] ordinary, contemporary, common meaning." *Perrin* v. *United States*, 444 U. S. 37, 42. In dictionaries from the era of § 203(*o*)'s enactment, "clothes" denotes items that are both designed and used to cover the body and are commonly regarded as articles of dress. Nothing in § 203(*o*)'s text or context suggests anything other than this ordinary meaning. There is no basis for petitioners' proposition that the unmodified term "clothes" somehow omits protective clothing. Section 203(*o*)'s exception applies only when the changing of clothes is "an inte-

gral and indispensable part of the principal activities for which covered workmen are employed," *Steiner* v. *Mitchell*, 350 U. S. 247, 256, and thus otherwise compensable under the Act. See 29 U. S. C. § 254(a). And protective gear is the *only* clothing that is integral and indispensable to the work of many occupations, such as butchers and longshoremen. Petitioners' position is also incompatible with the historical context of § 203(*o*)'s passage, contradicting contemporaneous Labor Department regulations and dictum in *Steiner*, see 350 U. S., at 248, 254–255. The interpretation adopted here leaves room for distinguishing between clothes and wearable items that are not clothes, such as some equipment and devices. The view of respondent and its *amici* that "clothes" encompasses the entire outfit that one puts on to be ready for work is also devoid of any textual foundation. Pp. 227–231.

(c) While the normal meaning of "changing clothes" connotes substitution, "changing" also carried the meaning to "alter" at the time of § 203(*o*)'s enactment. The broader statutory context makes plain that "time spent in changing clothes" includes time spent in altering dress. Whether one exchanges street clothes for work clothes or simply chooses to layer one over the other may be a matter of purely personal choice, and § 203(*o*) should not be read to allow workers to opt into or out of its coverage at random or at will when another reading is textually permissible. Pp. 231–232.

(d) Applying these principles here, it is evident that the donning and doffing in this case qualifies as "changing clothes" under § 203(*o*). Of the 12 items at issue, only 3—safety glasses, earplugs, and a respirator—do not fit within the elaborated interpretation of "clothes." Apparently concerned that federal judges would have to separate the minutes spent clothes-changing and washing from the minutes devoted to other activities during the relevant period, some Courts of Appeals have invoked the doctrine *de minimis non curat lex* (the law does not take account of trifles). But that doctrine does not fit comfortably within this statute, which is all about trifles. A more appropriate way to proceed is for courts to ask whether the period at issue can, *on the whole*, be fairly characterized as "time spent in changing clothes or washing." If an employee devotes the vast majority of that time to putting on and off equipment or other non-clothes items, the entire period would not qualify as "time spent in changing clothes" under § 203(*o*), even if some clothes items were also donned and doffed. But if the vast majority of the time is spent in donning and doffing "clothes" as defined here, the entire period qualifies, and the time spent putting on and off other items need not be subtracted. Here, the Seventh Circuit agreed with the District Court's conclusion that the time spent donning and doffing safety glasses and earplugs was minimal. And this Court is disinclined

to disturb the District Court's additional factual finding, not addressed by the Seventh Circuit, that the respirators were donned and doffed as needed during the normal workday and thus fell beyond § 203(*o*)'s scope. Pp. 232–236.

678 F. 3d 590, affirmed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, BREYER, ALITO, and KAGAN, JJ., joined, and in which SOTOMAYOR, J., joined except as to footnote 7.

Eric Schnapper argued the cause for petitioners. With him on the briefs was *Aaron B. Maduff.*

Lawrence C. DiNardo argued the cause for respondent. With him on the brief were *Brian J. Murray* and *Warren D. Postman.*

Anthony A. Yang argued the cause for the United States as *amicus curiae* urging affirmance. On the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *Jeffrey B. Wall*, and *M. Patricia Smith.**

JUSTICE SCALIA delivered the opinion of the Court.†

The question before us is the meaning of the phrase "changing clothes" as it appears in the Fair Labor Standards Act of 1938, 52 Stat. 1060, as amended, 29 U. S. C. § 201 *et seq.* (2006 ed. and Supp. V).

I. Facts and Procedural History

Petitioner Clifton Sandifer, among others, filed suit under the Fair Labor Standards Act against respondent United

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**Lynn K. Rhinehart*, *Harold C. Becker*, *James B. Coppess*, *Matthew J. Ginsburg*, *Nicholas W. Clark*, and *Renee L. Bowser* filed a brief for the American Federation of Labor and Congress of Industrial Organizations et al. as *amici curiae* urging reversal.

Briefs of *amici curiae* urging affirmance were filed for the American Meat Institute et al. by *Joseph E. Tilson* and *Brian W. Bulger*; for the Chamber of Commerce of the United States of America by *E. Joshua Rosenkranz*, *Robert M. Loeb*, and *Kathryn Comerford Todd*; and for the Grocery Manufacturers Association by *Tammy D. McCutchen* and *Karin F. R. Moore.*

†JUSTICE SOTOMAYOR joins this opinion except as to footnote 7.

States Steel Corporation in the District Court for the Northern District of Indiana. The plaintiffs in this putative collective action are a group of current or former employees of respondent's steelmaking facilities.[1] As relevant here, they seek backpay for time spent donning and doffing various pieces of protective gear. Petitioners assert that respondent requires workers to wear all of the items because of hazards regularly encountered in steel plants.

Petitioners point specifically to 12 of what they state are the most common kinds of required protective gear: a flame-retardant jacket, pair of pants, and hood; a hardhat; a "snood"; "wristlets"; work gloves; leggings; "metatarsal" boots; safety glasses; earplugs; and a respirator.[2] At bottom, petitioners want to be paid for the time they have spent putting on and taking off those objects. In the aggregate, the amount of time—and thus money—involved is likely to be quite large. Because this donning-and-doffing time would otherwise be compensable under the Act, U. S. Steel's contention of noncompensability stands or falls upon the validity of a provision of its collective-bargaining agreement with petitioners' union, which says that this time is noncompensable.[3] The validity of that provision depends, in turn,

[1] Petitioners filed this action under 29 U. S. C. § 216(b), which establishes a cause of action that may be maintained "by any one or more employees for and in behalf of himself or themselves and other employees similarly situated." Pending resolution of the instant summary-judgment dispute, a Magistrate Judge set aside a motion to certify the suit as a collective action, see No. 2:07–CV–443 RM, 2009 WL 3430222, *1, n. 1 (ND Ind., Oct. 15, 2009), but petitioners assert that their ranks are about 800 strong.

[2] The opinions below include descriptions of some of the items. See 678 F. 3d 590, 592 (CA7 2012); 2009 WL 3430222, *2, *6. And the opinion of the Court of Appeals provides a photograph of a male model wearing the jacket, pants, hardhat, snood, gloves, boots, and glasses. 678 F. 3d, at 593.

[3] The District Court concluded that the collective-bargaining agreement provided that the activities at issue here were noncompensable, 2009 WL 3430222, *10, and the Seventh Circuit upheld that conclusion, 678 F. 3d, at 595. That issue was not among the questions on which we granted certio-

upon the applicability of 29 U. S. C. § 203(*o*) to the time at issue. That subsection allows parties to decide, as part of a collective-bargaining agreement, that "time spent in changing clothes . . . at the beginning or end of each workday" is noncompensable.

The District Court granted summary judgment in pertinent part to U. S. Steel, holding that donning and doffing the protective gear constituted "changing clothes" within the meaning of § 203(*o*). No. 2:07–CV–443 RM, 2009 WL 3430222, *4–*10 (ND Ind., Oct. 15, 2009). The District Court further assumed that even if certain items—the hardhat, glasses, and earplugs—were not "clothes," the time spent donning and doffing them was "*de minimis*" and hence noncompensable. *Id.*, at *6. The Court of Appeals for the Seventh Circuit upheld those conclusions. 678 F. 3d 590, 593–595 (2012).[4]

We granted certiorari, 568 U. S. 1156 (2013), and now affirm.

II. Legal Background

The Fair Labor Standards Act, enacted in 1938, governs minimum wages and maximum hours for non-exempt "employees who in any workweek [are] engaged in commerce or in the production of goods for commerce, or [are] employed in an enterprise engaged in commerce or in the production of goods for commerce." 29 U. S. C. § 206(a) (minimum wages); § 207(a) (maximum hours); see § 213 (exemptions). The Act provides that "employee" generally means "any individual employed by an employer," § 203(e)(1), and, in turn, provides that to "employ" is "to suffer or permit to work," § 203(g).

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rari, and we take the import of the collective-bargaining agreement to be a given.

[4] Petitioners also sought, *inter alia*, backpay for time spent traveling between the locker rooms where they don and doff at least some of the protective gear and their workstations. The District Court denied that portion of respondent's motion for summary judgment, 2009 WL 3430222, *11, and the Seventh Circuit reversed, 678 F. 3d, at 595–598. That issue is not before this Court, so we express no opinion on it.

The Act did not, however, define the key terms "work" and "workweek"—an omission that soon let loose a landslide of litigation. See *IBP, Inc.* v. *Alvarez*, 546 U. S. 21, 25–26 (2005). This Court gave those terms a broad reading, culminating in its holding in *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U. S. 680 (1946), that "the statutory workweek includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed workplace." *Id.*, at 690–691. That period, *Anderson* explained, encompassed time spent "pursu[ing] certain preliminary activities after arriving . . . , such as putting on aprons and overalls [and] removing shirts." *Id.*, at 692–693. "These activities," the Court declared, "are clearly work" under the Act. *Id.*, at 693.

Organized labor seized on the Court's expansive construction of compensability by filing what became known as "portal" actions (a reference to the "portals" or entrances to mines, at which workers put on their gear). "PORTAL PAY SUITS EXCEED A BILLION," announced a newspaper headline in late 1946. N. Y. Times, Dec. 29, 1946, p. 1. Stating that the Fair Labor Standards Act had been "interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees," Congress responded by passing the Portal-to-Portal Act of 1947, 61 Stat. 84, as amended, 29 U. S. C. § 251 *et seq.* (2006 ed. and Supp. V). § 251(a).

The Portal-to-Portal Act limited the scope of employers' liability in various ways. As relevant here, it excluded from mandatorily compensable time

> "activities which are preliminary to or postliminary to [the] principal activity or activities [that an employee is employed to perform], which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities." 61 Stat. 87, 29 U. S. C. § 254(a)(2).

The Department of Labor promulgated a regulation explaining that the Portal-to-Portal Act did not alter what is known as the "continuous workday rule," under which compensable time comprises "the period between the commencement and completion on the same workday of an employee's principal activity or activities . . . [,] whether or not the employee engages in work throughout all of that period." 12 Fed. Reg. 7658 (1947); 29 CFR § 790.6(b) (2013). Of particular importance to this case, a Labor Department interpretive bulletin also specified that whereas "changing clothes" and "washing up or showering" "would be considered 'preliminary' or 'postliminary' activities" when "performed outside the workday and . . . under the conditions normally present," those same activities "may in certain situations be so directly related to the specific work the employee is employed to perform that [they] would be regarded as an integral part of the employee's 'principal activity.' " 12 Fed. Reg. 7659, and n. 49; 29 CFR § 790.7, and n. 49.

In 1949, Congress amended the Fair Labor Standards Act to address the conduct discussed in that interpretive bulletin—changing clothes and washing—by adding the provision presently at issue:

> "Hours Worked.—In determining for the purposes of [the minimum-wage and maximum-hours sections] of this title the hours for which an employee is employed, there shall be excluded any time spent in changing clothes or washing at the beginning or end of each workday which was excluded from measured working time during the week involved by the express terms of or by custom or practice under a bona fide collective-bargaining agreement applicable to the particular employee." 63 Stat. 911, 29 U. S. C. § 203(*o*).

Simply put, the statute provides that the compensability of time spent changing clothes or washing is a subject appropriately committed to collective bargaining.

In *Steiner* v. *Mitchell*, 350 U. S. 247 (1956), the Court echoed the Labor Department's 1947 regulations by holding that "changing clothes and showering" can, under some circumstances, be considered "an integral and indispensable part of the principal activities for which covered workmen are employed," reasoning that § 203(*o*) "clear[ly] impli[ed]" as much. *Id.*, at 254–256. And in *IBP*, we applied *Steiner* to treat as compensable the donning and doffing of protective gear somewhat similar to that at issue here, 546 U. S., at 30. We said that "any activity that is 'integral and indispensable' to a 'principal activity' is itself a 'principal activity' " under § 254(a), *id.*, at 37.

As relevant to the question before us, U. S. Steel does not dispute the Seventh Circuit's conclusion that "[h]ad the clothes-changing time in this case not been rendered noncompensable pursuant to [§]203(*o*), it would have been a principal activity." 678 F. 3d, at 596. Petitioners, however, quarrel with the premise, arguing that the donning and doffing of protective gear does not qualify as "changing clothes."

III. Analysis

A. "Clothes"

We begin by examining the meaning of the word "clothes."[5] It is a "fundamental canon of statutory construction" that, "unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning." *Perrin* v. *United States*, 444 U. S. 37, 42 (1979).

Dictionaries from the era of § 203(*o*)'s enactment indicate that "clothes" denotes *items that are both designed and used to cover the body and are commonly regarded as articles of dress*. See Webster's New International Dictionary of the English Language 507 (2d ed. 1950) (Webster's Second) (de-

[5] Although the Labor Department has construed § 203(*o*) on a number of occasions, the Government has expressly declined to ask us to defer to those interpretations, which have vacillated considerably over the years.

fining "clothes" as "[c]overing for the human body; dress; vestments; vesture"); see also, *e. g.*, 2 Oxford English Dictionary 524 (1933) (defining "clothes" as "[c]overing for the person; wearing apparel; dress, raiment, vesture"). That is what we hold to be the meaning of the word as used in § 203(*o*). Although a statute may make "a departure from the natural and popular acceptation of language," *Greenleaf* v. *Goodrich*, 101 U. S. 278, 284–285 (1880) (citing *Maillard* v. *Lawrence*, 16 How. 251 (1854)), nothing in the text or context of § 203(*o*) suggests anything other than the ordinary meaning of "clothes."

Petitioners argue that the word "clothes" is too indeterminate to be ascribed any general meaning but that, whatever it *includes*, it necessarily *excludes* items designed and used to protect against workplace hazards. That position creates a distinction between "protection," on the one hand, and "decency or comfort," on the other—a distinction that petitioners appear to have derived from Webster's Second, which elaborates that "clothes" is "a general term for whatever covering is worn, or is made to be worn, *for decency or comfort*." Webster's Second 507 (emphasis added). But that definition does not exclude, either explicitly or implicitly, items with a protective function, since "protection" and "comfort" are not incompatible, and are often synonymous. A parasol protects against the sun, enhancing the comfort of the bearer—just as work gloves protect against scrapes and cuts, enhancing the comfort of the wearer. Petitioners further assert that protective items of apparel are referred to as "clothing" rather than "clothes." They point out that, when introduced by the adjective "protective," the noun "clothing" is used more commonly than "clothes." That is true enough, but it seems to us explained by euphonic preference rather than difference in meaning. We see no basis for the proposition that the unmodified term "clothes" somehow omits protective clothing.

Petitioners' proffered distinction, moreover, runs the risk of reducing § 203(*o*) to near nothingness. The statutory compensation requirement to which § 203(*o*) provides an exception embraces the changing of clothes only when that conduct constitutes "an integral and indispensable part of the principal activities for which covered workmen are employed." *Steiner*, 350 U. S., at 256. But protective gear is the *only* clothing that is integral and indispensable to the work of factory workers, butchers, longshoremen, and a host of other occupations. Petitioners' definition of "clothes" would largely limit the application of § 203(*o*) to what might be called workers' costumes, worn by such employees as waiters, doormen, and train conductors. Petitioners insist that their definition excludes only items with some specific *work-hazard-related* protective function, but that limitation essentially abandons the assertion that clothes are for decency or comfort, leaving no basis whatever for the distinction.

Petitioners' position is also incompatible with the historical context surrounding § 203(*o*)'s passage, since it flatly contradicts an illustration provided by the Labor Department's 1947 regulations to show how "changing clothes" could be intimately related to a principal activity. See 29 CFR § 790.7, and n. 49. Those regulations cited the situation in which "an employee in a chemical plant . . . cannot perform his [job] without putting on certain clothes" and specified that "[s]uch a situation may exist where the changing of clothes on the employer's premises is required by law, by rules of the employer, or by the nature of the work." 12 Fed. Reg. 7660, and n. 65; 29 CFR § 790.8(c), and n. 65. And petitioners' position contradicts this Court's only prior opinion purporting to interpret § 203(*o*). *Steiner*, announced less than a decade after the statute's passage, suggested in dictum that, were there a pertinent provision of a collective-bargaining agreement, § 203(*o*) would have applied to the

facts of that case—where workers "ma[d]e extensive use of dangerously caustic and toxic materials, and [we]re compelled by circumstances, including vital considerations of health and hygiene, to change clothes" on the job site. 350 U. S., at 248, 254–255.

Petitioners contend that any attempt at a general definition of "clothes" will cast a net so vast as to capture all manner of marginal things—from bandoliers to barrettes to bandages. Yet even acknowledging that it may be impossible to eliminate all vagueness when interpreting a word as wide-ranging as "clothes," petitioners' fanciful hypotheticals give us little pause. The statutory context makes clear that the "clothes" referred to are items that are integral to job performance; the donning and doffing of other items would create no claim to compensation under the Act, and hence no need for the § 203(*o*) exception. Moreover, even with respect to items that can be regarded as integral to job performance, our definition does not embrace the view, adopted by some Courts of Appeals, that "clothes" means essentially anything worn on the body—including accessories, tools, and so forth. See, *e. g.*, *Salazar* v. *Butterball, LLC*, 644 F. 3d 1130, 1139–1140 (CA10 2011) ("clothes" are "items or garments worn by a person" and include "knife holders"). The construction we adopt today is considerably more contained. Many accessories—necklaces and knapsacks, for instance—are not "both designed and used to cover the body." Nor are tools "commonly regarded as articles of dress." Our definition leaves room for distinguishing between clothes and wearable items that are not clothes, such as some equipment and devices.[6]

Respondent and its *amici*, by contrast, give the term in question a capacious construction, effectively echoing the

[6] Petitioners and their *amici* insist that equipment can never be clothes. While we do not believe that every wearable piece of equipment qualifies—for example, a wristwatch—our construction of "clothes" does not exclude all objects that could conceivably be characterized as equipment.

Courts of Appeals mentioned above. On this view, "clothes" encompasses the entire outfit that one puts on to be ready for work. That interpretation is, to be sure, more readily administrable, but it is even more devoid of a textual foundation than petitioners' offering. Congress could have declared bargainable under §203(*o*) "time spent in changing *outfits*," or "time spent in putting on and off *all the items needed for work*." For better or worse, it used the narrower word "clothes." "The role of this Court is to apply the statute as it is written—even if we think some other approach might accord with good policy." *Burrage* v. *United States*, *ante*, at 218 (internal quotation marks and brackets omitted).

B. "Changing"

Having settled upon the meaning of "clothes," we must now consider the meaning of "changing." Petitioners assert that when used with certain objects—such as "tire," "diaper," or, indeed, "clothes"—the term "changing" connotes substitution. That is undoubtedly true. See Webster's Second 448 (defining "change" as "to make substitution of, for, or among, often among things of the same kind . . . ; as, to *change* one's clothes"). One would not normally say he has changed clothes when he puts on an overcoat. Petitioners conclude from this that items of protective gear that are put on *over* the employee's street clothes are not covered by §203(*o*).

We disagree. Although it is true that the normal meaning of "changing clothes" connotes substitution, the phrase is certainly able to have a different import. The term "changing" carried two common meanings at the time of §203(*o*)'s enactment: to "substitute" and to "alter." See, *e. g.*, 2 Oxford English Dictionary 268 (defining "change," among other verb forms, as "to substitute another (or others) for, replace by another (or others)" and "[t]o make (a thing) other than it was; to render different, alter, modify, transmute"). We think that despite the usual meaning of "changing clothes,"

the broader statutory context makes it plain that "time spent in changing clothes" includes time spent in altering dress.

The object of § 203(*o*) is to permit collective bargaining over the compensability of clothes-changing time and to promote the predictability achieved through mutually beneficial negotiation. There can be little predictability, and hence little meaningful negotiation, if "changing" means only "substituting." Whether one actually exchanges street clothes for work clothes or simply layers garments atop one another after arriving on the job site is often a matter of purely personal choice. That choice may be influenced by such happenstances and vagaries as what month it is, what styles are in vogue, what time the employee wakes up, what mode of transportation he uses, and so on. As the Fourth Circuit has put it, if the statute imposed a substitution requirement "compensation for putting on a company-issued shirt might turn on something as trivial as whether the employee did or did not take off the t-shirt he wore into work that day." *Sepulveda* v. *Allen Family Foods, Inc.*, 591 F. 3d 209, 216 (2009). Where another reading is textually permissible, § 203(*o*) should not be read to allow workers to opt into or out of its coverage at random or at will.[7]

C. Application

Applying the foregoing principles to the facts of this case, we hold that petitioners' donning and doffing of the protective gear at issue qualifies as "changing clothes" within the meaning of § 203(*o*).

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[7] This Court has stated that "exemptions" in the Fair Labor Standards Act "are to be narrowly construed against the employers seeking to assert them." *Arnold* v. *Ben Kanowsky, Inc.*, 361 U. S. 388, 392 (1960). We need not disapprove that statement to resolve the present case. The exemptions from the Act generally reside in § 213, which is entitled "Exemptions" and classifies certain kinds of workers as uncovered by various provisions. Thus, in *Christopher* v. *SmithKline Beecham Corp.*, 567 U. S. 142, 164, n. 21 (2012), we declared the narrow-construction principle inapplicable to a provision appearing in § 203, entitled "Definitions."

Petitioners have pointed to 12 particular items: a flame-retardant jacket, pair of pants, and hood; a hardhat; a snood; wristlets; work gloves; leggings; metatarsal boots; safety glasses; earplugs; and a respirator. The first nine clearly fit within the interpretation of "clothes" elaborated above: they are both designed and used to cover the body and are commonly regarded as articles of dress. That proposition is obvious with respect to the jacket, pants, hood, and gloves. The hardhat is simply a type of hat. The snood is basically a hood that also covers the neck and upper shoulder area; on the ski slopes, one might call it a "balaclava." The wristlets are essentially detached shirtsleeves. The leggings look much like traditional legwarmers, but with straps. And the metatarsal boots—more commonly known as "steel-toed" boots—are just a special kind of shoe.

The remaining three items, by contrast, do not satisfy our standard. Whereas glasses and earplugs may have a covering function, we do not believe that they are commonly regarded as articles of dress. And a respirator obviously falls short on both grounds. The question is whether the time devoted to the putting on and off of these items must be deducted from the noncompensable time. If so, federal judges must be assigned the task of separating the minutes spent clothes-changing and washing from the minutes devoted to other activities during the period in question.

Some Courts of Appeals, including the Court of Appeals in this case, have sought to avoid, or at least mitigate, this difficulty by invoking the doctrine *de minimis non curat lex* (the law does not take account of trifles). This, they hold, enables them to declare noncompensable a few minutes actually spent on something other than clothes-changing—to wit, donning and doffing non-clothes items.

Although the roots of the *de minimis* doctrine stretch to ancient soil, its application in the present context began with *Anderson*. There, the Court declared that because "[s]plit-second absurdities are not justified by the actualities of

working conditions or by the policy of the Fair Labor Standards Act," such "trifles" as "a few seconds or minutes of work beyond the scheduled working hours" may be "disregarded." 328 U. S., at 692. "We [thus] do not . . . preclude the application of a *de minimis* rule." *Ibid.*

We doubt that the *de minimis* doctrine can properly be applied to the present case. To be sure, *Anderson* included "putting on aprons and overalls" and "removing shirts" as activities to which "it is appropriate to apply a *de minimis* doctrine." *Id.*, at 692–693. It said that, however, in the context of determining what preliminary activities had to be counted as part of the gross workweek under § 207(a) of the Fair Labor Standards Act.[8] A *de minimis* doctrine does not fit comfortably within the statute at issue here, which, it can fairly be said, is *all about* trifles—the relatively insignificant periods of time in which employees wash up and put on various items of clothing needed for their jobs. Or to put it in the context of the present case, there is no more reason to *disregard* the minute or so necessary to put on glasses, earplugs, and respirators, than there is to *regard* the minute or so necessary to put on a snood. If the statute in question requires courts to select among trifles, *de minimis non curat lex* is not Latin for *close enough for government work.*

That said, we nonetheless agree with the basic perception of the Courts of Appeals that it is most unlikely Congress meant § 203(*o*) to convert federal judges into time-study professionals. That is especially so since the consequence of dispensing with the intricate exercise of separating the minutes spent clothes-changing and washing from the minutes

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[8] We note, moreover, that even in that context, the current regulations of the Labor Department apply a stricter *de minimis* standard than *Anderson* expressed. They specify that "[a]n employer may not arbitrarily fail to count as hours worked any part, however small, of the employee's fixed or regular working time or practically ascertainable period of time he is regularly required to spend on duties assigned to him." 29 CFR § 785.47.

devoted to other activities is not to prevent compensation for the uncovered segments, but merely to leave the issue of compensation to the process of collective bargaining. We think it is possible to give the text of § 203(*o*) a meaning that avoids such relatively inconsequential judicial involvement in "a morass of difficult, fact-specific determinations," *Sepulveda*, 591 F. 3d, at 218.

The forerunner of § 203(*o*)—the Portal-to-Portal Act provision whose interpretation by the Labor Department prompted its enactment—focused narrowly on the activities involved: "activities which are preliminary to or postliminary to [the employee's] principal activity or activities." § 254(a)(2). Section 203(*o*), by contrast, is addressed not to certain "activities," but to "time spent" on certain activities, viz., "changing clothes or washing." Just as one can speak of "spending the day skiing" even when more-than-negligible portions of the day are spent having lunch or drinking hot toddies, so also one can speak of "time spent changing clothes and washing" when the vast preponderance of the period in question is devoted to those activities. To be sure, such an imprecise and colloquial usage will not ordinarily be attributed to a statutory text, but for the reasons we have discussed we think that appropriate here. The question for courts is whether the period at issue can, *on the whole*, be fairly characterized as "time spent in changing clothes or washing." If an employee devotes the vast majority of the time in question to putting on and off equipment or other non-clothes items (perhaps a diver's suit and tank) the entire period would not qualify as "time spent in changing clothes" under § 203(*o*), even if some clothes items were donned and doffed as well. But if the vast majority of the time is spent in donning and doffing "clothes" as we have defined that term, the entire period qualifies, and the time spent putting on and off other items need not be subtracted.

In the present case, the District Court stated that "the time expended by each employee donning and doffing" safety

glasses and earplugs "is minimal," 2009 WL 3430222, *6, a conclusion with which the Seventh Circuit agreed, 678 F. 3d, at 593. As for respirators, the District Court stated that they "are kept and put on as needed at job locations," 2009 WL 3430222, *2, which would render the time spent donning and doffing them part of an employee's normal workday and thus beyond the scope of § 203(*o*). The Seventh Circuit did not address respirators at all, and we are not inclined to disturb the District Court's factual conclusion.

* * *

The judgment of the Court of Appeals is affirmed.

It is so ordered.

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AIR WISCONSIN AIRLINES CORP. *v.* HOEPER

CERTIORARI TO THE SUPREME COURT OF COLORADO

No. 12–315. Argued December 9, 2013—Decided January 27, 2014

Respondent Hoeper was a pilot for petitioner Air Wisconsin Airlines Corp. When Air Wisconsin stopped flying from Hoeper's home base on aircraft that he was certified to fly, he needed to become certified on a different type of aircraft to keep his job. After Hoeper failed in his first three attempts to gain certification, Air Wisconsin agreed to give him a fourth and final chance. But he performed poorly during a required training session in a simulator. Hoeper responded angrily to this failure—raising his voice, tossing his headset, using profanity, and accusing the instructor of "railroading the situation."

The instructor called an Air Wisconsin manager, who booked Hoeper on a flight from the test location to Hoeper's home in Denver. Several hours later, the manager discussed Hoeper's behavior with other airline officials. The officials discussed Hoeper's outburst, his impending termination, the history of assaults by disgruntled airline employees, and the chance that—because Hoeper was a federal flight deck officer (FFDO), permitted "to carry a firearm while engaged in providing air transportation," 49 U. S. C. § 44921(f)(1)—he might be armed. At the end of the meeting, an airline executive made the decision to notify the Transportation Security Administration (TSA) of the situation. The manager who had received the initial report from Hoeper's instructor made the call to the TSA. During that call, according to the jury, he made two statements: first, that Hoeper "was an FFDO who may be armed" and that the airline was "concerned about his mental stability and the whereabouts of his firearm"; and second, that an "[u]nstable pilot in [the] FFDO program was terminated today." In response, the TSA removed Hoeper from his plane, searched him, and questioned him about the location of his gun. Hoeper eventually boarded a later flight to Denver, and Air Wisconsin fired him the next day.

Hoeper sued for defamation in Colorado state court. Air Wisconsin moved for summary judgment and later for a directed verdict, relying on the Aviation and Transportation Security Act (ATSA), which grants airlines and their employees immunity against civil liability for reporting suspicious behavior, 49 U. S. C. § 44941(a), except where such disclosure is "made with actual knowledge that the disclosure was false, inaccurate, or misleading" or "made with reckless disregard as to the truth or falsity of that disclosure," § 44941(b). The trial court denied the mo-

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tions and submitted the ATSA immunity question to the jury. The jury found for Hoeper on the defamation claim. The State Supreme Court affirmed. It held that the trial court erred in submitting the immunity question to the jury but that the error was harmless. Laboring under the assumption that even true statements do not qualify for ATSA immunity if they are made recklessly, the court held that Air Wisconsin was not entitled to immunity because its statements to the TSA were made with reckless disregard of their truth or falsity.

Held:

1. ATSA immunity may not be denied to materially true statements. Pp. 246–251.

(a) The ATSA immunity exception is patterned after the actual malice standard of *New York Times Co.* v. *Sullivan*, 376 U. S. 254, which requires material falsity. See, *e. g.*, *Masson* v. *New Yorker Magazine, Inc.*, 501 U. S. 496, 517. Because the material falsity requirement was settled when the ATSA was enacted, Congress presumably meant to incorporate it into the ATSA's immunity exception and did not mean to deny ATSA immunity to true statements made recklessly. This presumption is not rebutted by other indicia of statutory meaning. Section 44941(b)(1) requires falsity, and § 44941(b)(2) simply extends the immunity exception from knowing falsehoods to reckless ones. Denying immunity for substantially true reports, on the theory that the person making the report had not yet gathered enough information to be certain of its truth, would defeat the purpose of ATSA immunity: to ensure that air carriers and their employees do not hesitate to provide the TSA with needed information. Pp. 246–249.

(b) Hoeper's arguments that the State Supreme Court's judgment should be affirmed notwithstanding its misapprehension of ATSA's immunity standard are unpersuasive. Hoeper claims that Air Wisconsin did not argue the truth of its statements in asserting immunity, but Air Wisconsin contended in the state court that ATSA's immunity exception incorporates the *New York Times* actual malice standard, which requires material falsity. And the State Supreme Court did not perform the requisite analysis of material falsity in finding the record sufficient to support the defamation verdict. A court's deferential review of jury findings cannot substitute for its own analysis of the record; the jury was instructed only to determine falsity, not materiality; and applying the material falsity standard to a defamation claim is quite different from applying it to ATSA immunity. Pp. 249–251.

2. Under the correct material falsity analysis, Air Wisconsin is entitled to immunity as a matter of law. Pp. 251–257.

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(a) In the defamation context, a materially false statement is one that "'would have a different effect on the mind of the reader [or listener] from that which the . . . truth would have produced.'" *Masson*, 501 U. S., at 517. This standard suffices in the ATSA context as well, so long as the hypothetical reader or listener is a security officer. For purposes of ATSA immunity, a falsehood cannot be material absent a substantial likelihood that a reasonable security officer would consider it important in determining a response to the supposed threat. Pp. 251–252.

(b) Viewing the evidence in the light most favorable to Hoeper, the Court concludes as a matter of law that any falsehoods in Air Wisconsin's statement to the TSA were not material. First, the Court rejects Hoeper's argument that Air Wisconsin should have qualified its statement that Hoeper "was an FFDO who may be armed" by noting that it had no reason to think he actually was armed. To the extent that Air Wisconsin's statement could have been confusing, any such confusion is immaterial, as a reasonable TSA officer—having been told that Hoeper was an FFDO who was upset about losing his job—would have wanted to investigate whether he was armed. To demand more precise wording would vitiate the purpose of ATSA immunity: to encourage air carriers and their employees, often in fast-moving situations and with little time to fine-tune their diction, to provide the TSA immediately with information about potential threats. Second, Air Wisconsin's statement that Hoeper "was terminated today" was not materially false. While Hoeper had not actually been fired at the time of the statement, everyone involved knew that his firing was imminent. No reasonable TSA officer would care whether an angry, potentially armed airline employee had just been fired or merely knew he was about to meet that fate. Finally, although the details of Hoeper's behavior during the simulator session may be disputed, it would have been correct even under Hoeper's version of the facts for Air Wisconsin to report that Hoeper "blew up" during the test. From a reasonable security officer's perspective, there is no material difference between a statement that Hoeper had "blown up" in a professional setting and a statement that he was unstable. Air Wisconsin's related statement that it was "concerned about [Hoeper's] mental stability" is no more troubling. Many of the officials who attended the meeting at airline headquarters might not have framed their concerns in terms of "mental stability," but it would be inconsistent with the ATSA's text and purpose to expose Air Wisconsin to liability because the manager who placed the call to the TSA could have chosen a slightly better phrase to articulate the airline's concern. A statement that would otherwise qualify for ATSA immunity

cannot lose that immunity because of some minor imprecision, so long as "the gist" of the statement is accurate, *Masson*, 501 U. S., at 517. Pp. 252–257.

320 P. 3d 830, reversed and remanded.

SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, GINSBURG, BREYER, and ALITO, JJ., joined, and in which SCALIA, THOMAS, and KAGAN, JJ., joined as to Parts I, II, and III–A. SCALIA, J., filed an opinion concurring in part and dissenting in part, in which THOMAS and KAGAN, JJ., joined, *post*, p. 258.

Jonathan F. Cohn argued the cause for petitioner. With him on the briefs were *Peter D. Keisler*, *Eric D. McArthur*, *Donald Chance Mark, Jr.*, *David H. Yun*, and *Jared R. Ellis*.

Eric J. Feigin argued the cause for the United States as *amicus curiae* urging vacatur. With him on the brief were *Solicitor General Verrilli*, *Assistant Attorney General Delery*, *Deputy Solicitor General Kneedler*, *Mark B. Stern*, *Kathryn B. Thomson*, *Paul M. Geier*, *Peter J. Plocki*, and *Timothy H. Goodman*.

Kevin K. Russell argued the cause for respondent. With him on the brief were *Scott A. McGath*, *Thomas C. Goldstein*, *Jason P. Rietz*, *Pamela S. Karlan*, and *Jeffrey L. Fisher*.*

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*Briefs of *amici curiae* urging reversal were filed for Airlines for America et al. by *Christopher T. Handman*, *David A. Berg*, *Kathryn Comerford Todd*, and *Tyler R. Green*; for DRI–The Voice of the Defense Bar by *Mary Massaron Ross*, *Jerrold J. Ganzfried*, and *Judith R. Nemsick*; for the First Amendment Coalition by *Gary L. Bostwick* and *Jean-Paul Jassy*; for the Reporters Committee for Freedom of the Press et al. by *Robert Corn-Revere*, *Ronald G. London*, *Bruce D. Brown*, *Gregg P. Leslie*, *Richard A. Bernstein*, *Kevin M. Goldberg*, *Jonathan Bloom*, *Jonathan Donnellan*, *Charles D. Tobin*, *Mickey H. Osterreicher*, *Kurt Wimmer*, *Jonathan D. Hart*, *Bruce W. Sanford*, and *Laurie A. Babinski*; and for Rep. John L. Mica by *Jon M. DeVore*.

Andrew J. Harakas filed a brief for the International Air Transport Association as *amicus curiae*.

JUSTICE SOTOMAYOR delivered the opinion of the Court.

In 2001, Congress created the Transportation Security Administration (TSA) to assess and manage threats against air travel. Aviation and Transportation Security Act (ATSA), 49 U. S. C. § 44901 *et seq.* To ensure that the TSA would be informed of potential threats, Congress gave airlines and their employees immunity against civil liability for reporting suspicious behavior. § 44941(a). But this immunity does not attach to "any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading" or "any disclosure made with reckless disregard as to the truth or falsity of that disclosure." § 44941(b).

The question before us is whether ATSA immunity may be denied under § 44941(b) without a determination that a disclosure was materially false. We hold that it may not. Because the state courts made no such determination, and because any falsehood in the disclosure here would not have affected a reasonable security officer's assessment of the supposed threat, we reverse the judgment of the Colorado Supreme Court.

I

A

William Hoeper joined Air Wisconsin Airlines Corporation as a pilot in 1998. But by late 2004, Air Wisconsin had stopped operating flights from Denver, Hoeper's home base, on any type of aircraft for which he was certified. To continue flying for Air Wisconsin out of Denver, Hoeper needed to gain certification on the British Aerospace 146 (BAe–146), an aircraft he had not flown.

Hoeper failed in his first three attempts to pass a proficiency test. After the third failure, as he later acknowledged at trial, his employment was "at [Air Wisconsin's] discretion." App. 193. But he and Air Wisconsin entered into an agreement to afford him "one more opportunity to

pass [the] proficiency check." *Id.*, at 426. The agreement left little doubt that Hoeper would lose his job if he failed again.

In December 2004, Hoeper flew from Denver to Virginia for simulator training as part of this final test. During the training, Hoeper failed to cope with a challenging scenario created by the instructor, Mark Schuerman, and the simulator showed the engines "flam[ing] out" due to a loss of fuel. *Id.*, at 203. As Schuerman began to tell Hoeper that he "should know better," *ibid.*, Hoeper responded angrily. He later described what happened:

> "At this point, that's it. I take my headset off and I toss it up on the glare shield. . . . [Schuerman] and I exchanged words at the same elevated decibel level. Mine went something like this: This is a bunch of shit. I'm sorry. You are railroading the situation and it's not realistic." *Id.*, at 203–204.

When Hoeper announced that he wanted to call the legal department of the pilots' union, Schuerman ended the session so that Hoeper could do so. Schuerman then reported Hoeper's behavior to Patrick Doyle, the Wisconsin-based manager of the BAe–146 fleet. Doyle booked Hoeper on a United Airlines flight back to Denver.

Several hours after Schuerman's report, Doyle discussed the situation at Air Wisconsin's headquarters with the airline's Vice President of Operations, Kevin LaWare; its Managing Director of Flight Operations, Scott Orozco; and its Assistant Chief Pilot, Robert Frisch. LaWare later explained the accretion of his concerns about what Hoeper might do next. He regarded Hoeper's behavior in the simulator as "a fairly significant outburst," of a sort that he "hadn't seen . . . before." *Id.*, at 276. And he knew "it was a given that . . . Hoeper's employment was . . . going to be terminated" as a result of his failure to complete the simulator training. *Id.*, at 278.

Then, LaWare testified, Orozco mentioned that Hoeper was a federal flight deck officer (FFDO). The FFDO program allows the Government to "deputize volunteer pilots of air carriers . . . to defend the flight decks of aircraft . . . against acts of criminal violence or air piracy." § 44921(a). FFDOs are permitted "to carry a firearm while engaged in providing air transportation." § 44921(f)(1). Hoeper had become an FFDO earlier in 2004 and had been issued a firearm. He was not allowed to carry the firearm during his trip to the training facility, because he was not "engaged in providing air transportation." *Ibid.* But according to one official at the meeting, the Denver airport's security procedures made it possible for crew members to bypass screening, so that Hoeper could have carried his gun despite the rule. Indeed, Frisch later testified that he was "aware of one" incident in which an Air Wisconsin pilot had come to training with his FFDO weapon. App. 292. On the basis of this information, LaWare concluded, there was "no way . . . to confirm" whether "Hoeper had his weapon with him, even though . . . by policy, [he was] not supposed to have it with him." *Id.*, at 279.

Finally, LaWare testified, he and the other Air Wisconsin officials discussed two prior episodes in which disgruntled airline employees had lashed out violently. *Id.*, at 280. In one incident, a FedEx flight engineer under investigation for misconduct "entered the cockpit" of a FedEx flight "and began attacking the crew with a hammer" before being subdued. *United States* v. *Calloway*, 116 F. 3d 1129, 1131 (CA6 1997). In another, a recently fired ticket agent brought a gun onto a Pacific Southwest Airlines flight and shot his former supervisor and the crew, leading to a fatal crash. Malnic, Report Confirms That Gunman Caused 1987 Crash of PSA Jet, L. A. Times, Jan. 6, 1989, p. 29.

In light of all this—Hoeper's anger, his impending termination, the chance that he might be armed, and the history of assaults by disgruntled airline employees—LaWare decided

that the airline "need[ed] to make a call to the TSA," to let the authorities know "the status" of the situation. App. 282.

Doyle offered to make the call. According to the jury, he made two statements to the TSA: first, that Hoeper "was an FFDO who may be armed" and that the airline was "concerned about his mental stability and the whereabouts of his firearm"; and second, that an "[u]nstable pilot in [the] FFDO program was terminated today." App. to Pet. for Cert. 111a. (The latter statement appears in the record as the subject line of an internal TSA e-mail, summarizing the call from Doyle. App. 414.)

The TSA responded to the call by ordering that Hoeper's plane return to the gate. Officers boarded the plane, removed Hoeper, searched him, and questioned him about the location of his gun. When Hoeper stated that the gun was at his home in Denver, a Denver-based federal agent went there to retrieve it.

Later that day, Hoeper boarded a return flight to Denver. Air Wisconsin fired him the following day.

B

Hoeper sued Air Wisconsin in Colorado state court on several claims, including defamation.[1] Air Wisconsin moved for summary judgment on the basis of ATSA immunity,[2] but the

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[1] Air Wisconsin agrees that it bears responsibility for Doyle's statements. 320 P. 3d 830, 834, n. 2 (Colo. 2012); *id.*, at 847 (Eid, J., concurring in part and dissenting in part).

[2] The ATSA immunity provision specifies that "[a]ny air carrier . . . or any employee of an air carrier . . . who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating to air piracy, a threat to aircraft or passenger safety, or terrorism, . . . to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure." 49 U. S. C. § 44941(a).

trial court denied it, ruling that the jury was entitled to find the facts pertinent to immunity. The case went to trial, and the court denied Air Wisconsin's motion for a directed verdict on the same basis. It submitted the question of ATSA immunity to the jury, with the instruction—following the language of § 44941(b)—that immunity would not apply if Hoeper had proved that Air Wisconsin "made the disclosure [to the TSA] with actual knowledge that the disclosure was false, inaccurate, or misleading" or "with reckless disregard as to its truth or falsity." *Id.*, at 582. The jury instructions did not state that ATSA immunity protects materially true statements.

The jury found for Hoeper on the defamation claim and awarded him $849,625 in compensatory damages and $391,875 in punitive damages. The court reduced the latter award to $350,000, for a total judgment of just under $1.2 million, plus costs.

The Colorado Court of Appeals affirmed. 232 P. 3d 230 (2009). It held "that the trial court properly submitted the ATSA immunity issue to the jury," that "the record supports the jury's rejection of immunity," and that the evidence was sufficient to support the jury's defamation verdict. *Id.*, at 233.

The Colorado Supreme Court affirmed. 320 P. 3d 830 (2012). It began by holding, contrary to the lower courts, "that immunity under the ATSA is a question of law to be determined by the trial court before trial." *Id.*, at 836. But it concluded that the trial court's error in submitting immunity to the jury was "harmless because Air Wisconsin is not entitled to immunity." *Id.*, at 837. In a key footnote, the court stated: "In our determination of immunity under the ATSA, we need not, and therefore do not, decide whether the statements were true or false. Rather, we conclude that Air Wisconsin made the statements with reckless disregard as to their truth or falsity." *Id.*, at 838, n. 6. The court thus appears to have labored under the assumption that even

true statements do not qualify for ATSA immunity if they are made recklessly.

Applying this standard, and giving "no weight to the jury's finding[s]," *ibid.*, n. 5, the court held that "[a]lthough the events at the training may have warranted a report to TSA," Air Wisconsin's statements "overstated those events to such a degree that they were made with reckless disregard of their truth or falsity." *Id.*, at 838. The court opined that Air Wisconsin "would likely be immune under the ATSA if Doyle had reported that Hoeper was an Air Wisconsin employee, that he knew he would be terminated soon, that he had acted irrationally at the training three hours earlier and 'blew up' at test administrators, and that he was an FFDO pilot." *Id.*, at 840. But because Doyle actually told the TSA "(1) that he believed Hoeper to be mentally unstable; (2) that Hoeper had been terminated earlier that day; and (3) that Hoeper may have been armed," *id.*, at 838, the court determined that his statements "went well beyond" the facts and did not qualify for immunity, *id.*, at 840. The court went on to conclude that the evidence was sufficient to support the jury's defamation verdict.

Justice Eid, joined by two others, dissented in part. She agreed with the majority's holding that immunity is an issue for the court, not the jury. But she reasoned that Air Wisconsin was entitled to immunity "because [its] statements to the TSA were substantially true." *Id.*, at 842.

We granted certiorari to decide "[w]hether ATSA immunity may be denied without a determination that the air carrier's disclosure was materially false." 570 U. S. 904 (2013).

II

A

Congress patterned the exception to ATSA immunity after the actual malice standard of *New York Times Co.* v. *Sullivan*, 376 U. S. 254 (1964), and we have long held that actual malice requires material falsity. Because we presume that Congress meant to incorporate the settled meaning of actual

malice when it incorporated the language of that standard, we hold that a statement otherwise eligible for ATSA immunity may not be denied immunity unless the statement is materially false.

In *New York Times*, we held that under the First Amendment, a public official cannot recover "for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with 'actual malice'—that is, with knowledge that it was false or with reckless disregard of whether it was false or not." *Id.*, at 279–280. Congress borrowed this exact language in denying ATSA immunity to "(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or (2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure." § 44941(b).

One could in principle construe the language of the actual malice standard to cover true statements made recklessly. But we have long held, to the contrary, that actual malice entails falsity. See, *e. g.*, *Philadelphia Newspapers, Inc.* v. *Hepps*, 475 U. S. 767, 775 (1986) ("[A]s one might expect given the language of the Court in *New York Times*, a public-figure plaintiff must show the falsity of the statements at issue in order to prevail in a suit for defamation" (citation omitted)); *Garrison* v. *Louisiana*, 379 U. S. 64, 74 (1964) ("We held in *New York Times* that a public official might be allowed the civil remedy only if he establishes that the utterance was false").

Indeed, we have required more than mere falsity to establish actual malice: The falsity must be "material." *Masson* v. *New Yorker Magazine, Inc.*, 501 U. S. 496, 517 (1991). As we explained in *Masson*, "[m]inor inaccuracies do not amount to falsity so long as 'the substance, the gist, the sting, of the libelous charge be justified.'" *Ibid.* A "statement is not considered false unless it 'would have a different effect on the mind of the reader from that which the pleaded truth would have produced.'" *Ibid.* (quoting R. Sack, Libel, Slander, and Related Problems 138 (1980)).

These holdings were settled when Congress enacted the ATSA, and we therefore presume that Congress meant to adopt the material falsity requirement when it incorporated the actual malice standard into the ATSA immunity exception. "[I]t is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it is taken." *FAA* v. *Cooper*, 566 U. S. 284, 292 (2012) (internal quotation marks omitted). The actual malice standard does not cover materially true statements made recklessly, so we presume that Congress did not mean to deny ATSA immunity to such statements.

Other indicia of statutory meaning could rebut this presumption, but here, they do not. First, the ATSA's text favors a falsity requirement. The first subsection of § 44941(b) requires falsity, as a true disclosure cannot have been made "with actual knowledge" that it "was false." The only question is whether the second subsection—which denies immunity to "any disclosure made with reckless disregard as to [its] truth or falsity"—similarly requires falsity. We conclude that it does. The second subsection simply extends the immunity exception from knowing falsehoods to reckless ones, ensuring that an air carrier cannot avoid liability for a baseless report by sticking its head in the sand to avoid "actual knowledge" that its statements are false. "[T]he defense of truth . . . , even if not explicitly recognized, . . . is implicit in . . . a standard of recovery that rests on knowing or reckless disregard of the truth." *Cox Broadcasting Corp.* v. *Cohn*, 420 U. S. 469, 498–499 (1975) (Powell, J., concurring).

A material falsity requirement also serves the purpose of ATSA immunity. The ATSA shifted from airlines to the TSA the responsibility "for assessing and investigating possible threats to airline security." 320 P. 3d, at 845. (Eid, J., concurring in part and dissenting in part). In directing the TSA to "receive, assess, and distribute intelligence in-

formation related to transportation security," 49 U. S. C. § 114(f)(1), Congress wanted to ensure that air carriers and their employees would not hesitate to provide the TSA with the information it needed. This is the purpose of the immunity provision, evident both from its context and from the title of the statutory section that contained it: "encouraging airline employees to report suspicious activities." ATSA § 125, 115 Stat. 631 (capitalization and boldface type omitted). It would defeat this purpose to deny immunity for substantially true reports, on the theory that the person making the report had not yet gathered enough information to be certain of its truth. Such a rule would restore the pre-ATSA state of affairs, in which air carriers bore the responsibility to investigate and verify potential threats.

We therefore hold that ATSA immunity may not be denied under § 44941(b) to materially true statements. This interpretation of the statute is clear enough that Hoeper effectively concedes it. See Brief for Respondent 30 (acknowledging that if the Colorado Supreme Court actually said " 'an airline may be denied ATSA immunity . . . for reporting true information,' " then "the court was likely wrong"). Hoeper does point out in a footnote that given Congress' desire to deny immunity to " 'bad actors,' " and "given that the vast majority of reckless statements will *not* turn out to be true[,] . . . Congress could have quite reasonably chosen to deny the special privilege of ATSA immunity to all reckless speakers," even those whose statements turned out to be true. *Id.*, at 30, n. 12. But although Congress could have made this choice, nothing about the statute's text or purpose suggests that it actually did. Instead, Congress chose to model the exception to ATSA immunity after a standard we have long construed to require material falsity.

B

We are not persuaded by Hoeper's arguments that we should affirm the judgment of the Colorado Supreme Court

notwithstanding its misapprehension of the ATSA immunity standard.

Hoeper first argues that Air Wisconsin forfeited the claim that it is entitled to immunity because its statements were materially true. His premise is that Air Wisconsin argued the truth of its statements only in challenging the evidentiary basis for the defamation verdict, not in asserting immunity. But Air Wisconsin's brief before the Colorado Supreme Court argued that the exception to ATSA immunity "appears to incorporate the *New York Times* actual malice standard," which—as we have explained—requires material falsity. Petitioner's Opening Brief in No. 09SC1050, p. 24.

Hoeper next argues that the Colorado Supreme Court performed the requisite analysis of material falsity, albeit in the context of finding the record sufficient to support the jury's defamation verdict. For several reasons, however, this analysis does not suffice for us to affirm the denial of ATSA immunity. First, to the extent that the immunity determination belongs to the court—as the Colorado Supreme Court held—a court's deferential review of jury findings cannot substitute for its own analysis of the record. Second, the jury here did not find that any falsity in Air Wisconsin's statements was material, because the trial court instructed it only to determine whether "[o]ne or more of th[e] statements was false," App. 580, without addressing materiality. Third, applying the material falsity standard to a defamation claim is quite different from applying it to ATSA immunity. In both contexts, a materially false statement is one that "'would have a different effect on the mind of the reader [or listener] from that which the . . . truth would have produced.'" *Masson*, 501 U. S., at 517. But the identity of the relevant reader or listener varies according to the context. In determining whether a falsehood is material to a defamation claim, we care whether it affects the subject's reputation in the community. In the context of determining ATSA immunity, by contrast, we care whether a falsehood

affects the authorities' perception of, and response to, a given threat.[3]

III

Finally, the Colorado Supreme Court's analysis of material falsity was erroneous. We turn next to explaining why, by applying the ATSA immunity standard to the facts of this case.[4]

A

We begin by addressing how to determine the materiality of a false statement in the ATSA context. As we noted earlier, a materially false statement is generally one that "'would have a different effect on the mind of the reader [or listener] from that which the . . . truth would have produced.'" *Ibid.* The parties quibble over whether ATSA immunity requires some special version of this standard, but they more or less agree—as do we—that the usual standard suffices as long as the hypothetical reader or listener is a security officer.

A further question is what it means for a statement to produce "'a different effect on the mind of'" a security offi-

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[3] These are very different inquiries. Suppose the TSA receives the following tip: "My adulterous husband is carrying a gun onto a flight." Whether the husband is adulterous will presumably have no effect on the TSA's assessment of any security risk that he poses. So if the word "adulterous" is false, the caller may still be entitled to ATSA immunity. But any falsity as to that word obviously would affect the husband's reputation in the community, so it would be material in the context of a defamation claim.

[4] We "recognize the prudence . . . of allowing the lower courts 'to undertake [a fact-intensive inquiry] in the first instance.'" *Holland* v. *Florida*, 560 U. S. 631, 654 (2010). Here, however, we conclude that another prudential consideration—the need for clear guidance on a novel but important question of federal law—weighs in favor of our applying the ATSA immunity standard. Cf. *Bose Corp.* v. *Consumers Union of United States, Inc.*, 466 U. S. 485, 503 (1984) ("[T]his Court's role in marking out the limits of [a First Amendment] standard through the process of case-by-case adjudication is of special importance").

cer from that which the truth would have produced. In defamation law, the reputational harm caused by a false statement *is* its effect on a reader's or listener's mind. But contrary to the position of Hoeper's counsel at oral argument, Tr. of Oral Arg. 32–33, courts cannot decide whether a false statement produced "'a different effect on the mind of'" a hypothetical TSA officer without considering the effect of that statement on the TSA's behavior. After all, the whole reason the TSA considers threat reports is to determine and execute a response.

A plaintiff seeking to defeat ATSA immunity need not show "precisely what a particular official or federal agency would have done in a counterfactual scenario." Brief for United States as *Amicus Curiae* 27. Such a showing would be "impossible . . . given the need to maintain secrecy regarding airline security operations." Brief for Respondent 42. But any falsehood cannot be material, for purposes of ATSA immunity, absent a substantial likelihood that a reasonable security officer would consider it important in determining a response to the supposed threat. Cf. *TSC Industries, Inc.* v. *Northway, Inc.*, 426 U. S. 438, 449 (1976) (an omission in a proxy solicitation "is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote"). This standard "is an objective one, involving the [hypothetical] significance of an omitted or misrepresented fact to a reasonable" security official, rather than the actual significance of that fact to a particular security official. *Id.*, at 445.

B

We apply the material falsity standard to the facts of this case. In doing so, we neither embrace nor reject the Colorado Supreme Court's unanimous holding "that immunity under the ATSA is a question of law to be determined by the trial court before trial." 320 P. 3d, at 836; see *id.*, at 842 (Eid, J., concurring in part and dissenting in part) (agreeing

with majority). Rather, we conclude that even if a jury were to find the historical facts in the manner most favorable to Hoeper, Air Wisconsin is entitled to ATSA immunity as a matter of law.

We begin with Air Wisconsin's statement that Hoeper "was an FFDO who may be armed." App. to Pet. for Cert. 111a. Hoeper cannot dispute the literal truth of this statement: He was an FFDO, and because FFDOs possess weapons, any FFDO "may be armed." Hoeper argues only that to avoid any misinterpretation, Air Wisconsin should have qualified the statement by adding that it had no reason to think he was actually carrying his gun during the trip to Virginia, especially because he was not allowed to do so under § 44921(f)(1).[5] We agree that Air Wisconsin's statement could have been misinterpreted by some, but we reject Hoeper's argument for two reasons. First, any confusion of the nature that Hoeper suggests would have been immaterial: A reasonable TSA officer, having been told only that Hoeper was an FFDO and that he was upset about losing his job, would have wanted to investigate whether Hoeper was carrying his gun. Second, to accept Hoeper's demand for such precise wording would vitiate the purpose of ATSA immunity: to encourage air carriers and their employees, often in fast-moving situations and with little time to fine-tune their diction, to provide the TSA immediately with information about potential threats. Baggage han-

[5] See Tr. of Oral Arg. 42–43 (concession by Hoeper's counsel that "it would have been true for [Air Wisconsin] to say, look, we're calling to let you know, because Mr. Hoeper's an FFDO, we don't have any reason to believe that he has gun with him, but we can't tell for sure, so we just thought we would tell you, in case you have any questions and want to investigate further").

While we take the jury's findings at face value, we note that the record suggests Air Wisconsin may well have added the qualifier that Hoeper argues was necessary. An internal TSA e-mail summarizing Doyle's call concludes by stating: "[Redacted] does not believe [redacted] is in possession of a firearm at this time." App. 414.

dlers, flight attendants, gate agents, and other airline employees who report suspicious behavior to the TSA should not face financial ruin if, in the heat of a potential threat, they fail to choose their words with exacting care.[6]

We next consider Air Wisconsin's statement that Hoeper "was terminated today." App. to Pet. for Cert. 111a. When Air Wisconsin made that statement, Hoeper had not yet been fired. But everyone knew the firing was almost certainly imminent. Hoeper acknowledged that his employment was "at [Air Wisconsin's] discretion" after his third failed test, App. 193, and the agreement between him and Air Wisconsin stated that his "fourth . . . attempt" to pass the test would be his "final" one, *id.*, at 426. No reasonable TSA officer would care whether an angry, potentially armed airline employee had just been fired or merely knew he was about to meet that fate.

Finally, we consider Air Wisconsin's statements that Hoeper was "[u]nstable" and that it was "concerned about his mental stability." App. to Pet. for Cert. 111a. Although the details of Hoeper's behavior during the simulator session may be disputed, Hoeper himself testified that he had become visibly angry: He decided "that's it," he removed his headset and "toss[ed] it," and he accused the instructor—at an "elevated decibel level," and with an expletive—of "railroading the situation." App. 203–204. It would surely have been correct, then, for Air Wisconsin to report that Hoeper "'blew up'" during the test. 320 P. 3d, at 840. The question is whether, from the perspective of a reasonable security officer, there is any material difference between a statement that Hoeper had just "blown up" in a professional

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[6] Hoeper also takes issue with Air Wisconsin's statement that it was "concerned about . . . the whereabouts of his firearm," App. to Pet. for Cert. 111a. But his arguments concerning this statement are the same as those concerning the statement that he "may [have] been armed," *ibid.*, and we reject them for the same reasons.

setting and a statement that he was "[u]nstable." We think not.

We are no more troubled by Air Wisconsin's related statement that it was "concerned about [Hoeper's] mental stability." Hoeper is correct that many of the Air Wisconsin officials who attended the meeting at headquarters might not have framed their concerns in terms of "mental stability." LaWare, for instance, testified that "[t]hose weren't the words that [he] would have anticipated" when he directed Doyle to call the TSA. App. 272. But the officials who attended the meeting did harbor concerns about Hoeper's mental state: They knew he had just "blown up," and they worried about what he might do next. It would be inconsistent with the ATSA's text and purpose to expose Air Wisconsin to liability because its employee could have chosen a slightly better phrase than "mental stability" to articulate its concern. Just as "[m]inor inaccuracies do not amount to falsity" in the defamation context, "so long as 'the substance, the gist, the sting, of the libelous charge be justified,'" *Masson*, 501 U. S., at 517, a statement that would otherwise qualify for ATSA immunity cannot lose that immunity because of some minor imprecision, so long as "the gist" of the statement is accurate. Doyle's statements to the TSA accurately conveyed "the gist" of the situation; it is irrelevant whether trained lawyers or judges might with the luxury of time have chosen more precise words.

Hoeper's overarching factual theory appears to be that members of the BAe–146 team, including Doyle and Schuerman, harbored personal animosity toward him, which caused them to manipulate the proficiency tests in order to fail him. But even if Hoeper were correct about all this (and we express no view on that question), we do not see why it would have made him any less a threat in the eyes of a reasonable security officer. As between two employees—one who thinks he is being fired because of his inadequate skills, an-

other who thinks he is being fired because his employer hates him—the latter is presumably more, not less, likely to lash out in anger.

The partial dissent argues that Doyle's reference to Hoeper's "mental stability" was so egregious as to make his report to the TSA the basis of a $1.2 million defamation judgment. We disagree. While lawyers and judges may in some contexts apply the label "mentally unstable" to people suffering from serious mental illnesses, see *post*, at 261 (SCALIA, J., concurring in part and dissenting in part), that is hardly the only manner in which the label is used. A holding that Air Wisconsin lost its ATSA immunity by virtue of Doyle's failure to be aware of every connotation of the phrase "mental stability" would eviscerate the immunity provision. All of us from time to time use words that, on reflection, we might modify. If such slips of the tongue could give rise to major financial liability, no airline would contact the TSA (or permit its employees to do so) without running by its lawyers the text of its proposed disclosure—exactly the kind of hesitation that Congress aimed to avoid.

The partial dissent further argues that Hoeper's "display of anger" made him no more a threat than "millions of perfectly harmless air travelers." *Post*, at 260, 261. But Hoeper did not just lose his temper; he lost it in circumstances that he knew would lead to his firing, which he regarded as the culmination of a vendetta against him. And he was not just any passenger; he was an FFDO, which meant that he could plausibly have been carrying a firearm. In short, Hoeper was not some traveling businessman who yelled at a barista in a fit of pique over a badly brewed cup of coffee.

Finally, the partial dissent relies on an expert's testimony "that Hoeper's behavior did not warrant *any* report to the TSA." *Post*, at 261 (citing App. 356). But the expert appears to have based that statement on an outdated understanding of reporting obligations that is flatly at odds with the

ATSA. Prior to the ATSA, "airlines were responsible for assessing and investigating possible threats to airline security." 320 P. 3d, at 845 (Eid, J., concurring in part and dissenting in part). But the ATSA shifted that responsibility to the TSA, creating a policy "known as 'when in doubt, report.' " *Id.*, at 846; see *supra*, at 248–249. The expert who believed that Hoeper's conduct did not warrant a report to the TSA also believed that airlines have "an obligation . . . to filter out . . . the low noise from . . . what's significant" in reporting threats. App. 356. That understanding does not comport with the policy that Congress chose to enact.

The Colorado Supreme Court recognized that even if the facts are viewed in the light most favorable to Hoeper, Air Wisconsin "would likely be immune" had it "reported that Hoeper . . . knew he would be terminated soon, that he had acted irrationally at the training three hours earlier and 'blew up' at test administrators, and that he was an FFDO pilot." 320 P. 3d, at 840. But the court erred in parsing so finely the distinctions between these hypothetical statements and the ones that Air Wisconsin actually made. The minor differences are, for the reasons we have explained, immaterial as a matter of law in determining Air Wisconsin's ATSA immunity.

By incorporating the actual malice standard into § 44941(b), Congress meant to give air carriers the " 'breathing space' " to report potential threats to security officials without fear of civil liability for a few inaptly chosen words. *New York Times*, 376 U. S., at 272. To hold Air Wisconsin liable for minor misstatements or loose wording would undermine that purpose and disregard the statutory text.

* * *

The judgment of the Supreme Court of Colorado is therefore reversed, and the case is remanded for proceedings not inconsistent with this opinion.

It is so ordered.

JUSTICE SCALIA, with whom JUSTICE THOMAS and JUSTICE KAGAN join, concurring in part and dissenting in part.

I agree with the Court that under the Aviation and Transportation Security Act (ATSA), 49 U. S. C. § 44901 *et seq.*, an airline may not be denied immunity for a report it made to the Transportation Security Administration (TSA) absent a finding that the report was materially false. I also agree that, in this context, materiality means that the falsehood had a natural tendency to influence a reasonable TSA officer's determination of an appropriate response to the report; and that neither the jury nor the courts below considered material falsity in this ATSA-specific way. I therefore join Parts I, II, and III–A of the Court's opinion.

Having answered the question we granted certiorari to decide, see 570 U. S. 904 (2013), I would stop there and remand the case for further proceedings. Instead, the Court proceeds to "apply the [ATSA] material falsity standard to the facts of this case" in the first instance, *ante*, at 252, and concludes as a matter of law that Air Wisconsin's report to the TSA about William Hoeper was not materially false. In so holding, the Court in my view reaches out to decide a factbound question better left to the lower courts, and then proceeds to give the wrong answer. I therefore respectfully dissent from Part III–B and the disposition.

We have held that under the First Amendment, a court's role is to determine whether "[a] reasonable jury could find a material difference between" the defendant's statement and the truth. *Masson* v. *New Yorker Magazine, Inc.*, 501 U. S. 496, 522 (1991). That makes sense, since materiality is the sort of " 'mixed question of law and fact' " that "has typically been resolved by juries." *United States* v. *Gaudin*, 515 U. S. 506, 512 (1995). The jury has a vital role to play in the materiality inquiry, which entails " 'delicate assessments of the inferences a "reasonable decisionmaker" would draw from a given set of facts and the significance of those inferences to him' " and is therefore " 'peculiarly one for the trier

of fact.'" *Ibid.* (quoting *TSC Industries, Inc.* v. *Northway, Inc.*, 426 U. S. 438, 450 (1976); brackets omitted). Such a question cannot be withdrawn from the jury unless "the facts and the law will reasonably support only one conclusion" on which "reasonable persons . . . could [not] differ." *McDermott Int'l, Inc.* v. *Wilander*, 498 U. S. 337, 356 (1991). The same rule applies to a determination of immunity from suit: When a defendant raises qualified immunity on summary judgment, the court must "adop[t] . . . the plaintiff's version of the facts" unless "no reasonable jury could believe it." *Scott* v. *Harris*, 550 U. S. 372, 378–380 (2007).

Therefore, if we are to apply the ATSA materiality standard to the complex record in this case in the first instance, it is proper to view "the historical facts in the manner most favorable to Hoeper," as the Court purports to do. *Ante*, at 253. We must of course begin by taking as given the findings that we *know* the jury already made, including that Air Wisconsin told the TSA that the airline was "concerned about [Hoeper's] mental stability" and that he was an "[u]nstable pilot," App. to Pet. for Cert. 111a (special verdict form), and that those statements were false, 320 P. 3d 830, 841 (Colo. 2012). Next, we must ask whether a reasonable jury *could* find the remaining historical facts to be such that those statements were not only false, but *materially* false from the perspective of a reasonable TSA agent. If not, judgment for Air Wisconsin is proper; but if so, the ATSA materiality question should be tried to a (properly instructed) jury. (Unless, of course, a reasonable jury would be *compelled* to find facts that would render the statements materially false, in which case judgment for Hoeper would be proper; but that is assuredly not the case here.)

Applying that reasonable-jury standard, I do not see how we can possibly hold as a matter of law that Air Wisconsin's report was not materially false. The Court acknowledges Hoeper's description of the confrontation that spawned the airline's threat report: After failing a flight simulator test,

Hoeper "decided 'that's it,' he removed his headset and 'toss[ed] it,' and he accused the instructor—at an 'elevated decibel level,' and with an expletive—of 'railroading the situation.' " *Ante*, at 254 (quoting App. 203–204). A jury could credit Hoeper's account. It could also believe his "overarching factual theory" that his anger was reasonable because the instructor had "manipulate[d]" the test to cause him to fail out of "personal animosity," *ante*, at 255—a theory that was not without supporting evidence, see, *e. g.*, App. 259–260 (pilot testifying as expert witness that Hoeper's testing was "absolutely unfair" and "biased"). Moreover, there was evidence from which a jury could conclude that no one who interacted with Hoeper during or after the confrontation—including the instructor—viewed him as either unstable or threatening. See, *e. g.*, *id.*, at 15–16 (instructor acknowledging that he " 'quickly realized it wasn't a threatening situation' "); *id.*, at 29–31 (instructor testifying he " 'never felt that [Hoeper] was going to go do something stupid,' " " 'didn't believe that Mr. Hoeper posed a threat in any way to anybody else at all,' " " 'did not believe that Mr. Hoeper was engaging in irrational behavior,' " and " 'deem[ed] him perfectly safe to get on an airplane' "); *id.*, at 462 (airline representative who gave Hoeper permission to fly home testifying he "had no concern that [Hoeper] was a physical threat to anybody" and "didn't believe he was mentally unstable").

In short, a jury *could* find that Hoeper did nothing more than engage in a brief, run-of-the-mill, and arguably justified display of anger that included raising his voice and swearing, but that did not cause anyone, including the person on the receiving end of the outburst, to view him as either irrational or a potential source of violence. Viewing the facts in that light, I cannot agree with the Court that a reasonable TSA official would not "consider . . . important," *ante*, at 252, the difference between an individual who engaged in this sort of heated but commonplace display of anger, on the one hand, and on the other, an individual whose colleagues regard him

as "mentally unstable." It is the difference between a category that no doubt includes millions of perfectly harmless air travelers and one that, in ordinary parlance, connotes an alarming degree of unpredictability and aggressiveness. Indeed, we have used that term in connection with individuals so "dangerously mentally ill" that they may be subject to civil confinement. *Kansas* v. *Hendricks*, 521 U. S. 346, 363 (1997). The importance of that difference was highlighted by the expert testimony in this case of a former TSA Federal Security Director, who stated—based on a version of the underlying facts the jury was entitled to accept—that Hoeper's behavior did not warrant *any* report to the TSA. App. 356.*

The association with dangerous mental illness is not, as the Court suggests, merely one "connotation of the phrase 'mental [in]stability' " among many, *ante,* at 256; it is the everyday understanding of that phrase. The Court says that this is "hardly the only manner in which the label is used," *ibid.*, but it does not even attempt to describe another usage, let alone one that would be a materially accurate description of the facts of this case as a jury might find them. The Court also suggests that the circumstances of this case—particularly the fact that Hoeper knew his firing was imminent, had reason to be angry with the airline, and was

*The Court dismisses the former Director's testimony because he testified that in making threat reports to the TSA, airline officials should use "common sense" to "filter out the garbage and report [only] really suspicious incidents," App. 356, a view the Court deems "flatly at odds with the ATSA," *ante,* at 256. The ATSA, however, simply requires airlines to report "threat[s] to civil aviation," 49 U. S. C. § 44905(a). The statute surely places a heavy thumb on the scale in favor of reporting, but it certainly does not preclude the exercise of reasonable judgment in deciding what rises to the level of a "threat" and what constitutes, as the former Director put it, irrelevant "garbage." And even if one disagrees with the former Director that no report should have been made at all, the point is that a reasonable jury could have considered his testimony relevant to establishing that falsely expressing concerns about an individual's "mental stability" in the circumstances of this case would have a material effect on the TSA's decisionmaking process.

authorized to carry a firearm—distinguish Hoeper's confrontation with the instructor from an ordinary "fit of pique." *Ibid.* But if so, it was *all the more important* for the airline to make an accurate report to the TSA, so that the agency could assess the possible danger and determine an appropriate response. Falsely reporting to the TSA that a young Irishman is an IRA terrorist is much more likely to produce a prompt and erroneous response than reporting that a 70-year-old English grandmother is. The circumstances the Court identifies enhanced, rather than diminished, the likelihood that the false "mentally unstable" designation would have a material effect on the TSA's response.

In sum, it is simply implausible that, taking the facts of this case in the light most favorable to Hoeper, a reasonable jury would *have* to find that the report of mental instability would have no effect upon the course of action determined by the TSA. The Court's holding to the contrary demonstrates the wisdom of preserving the jury's role in this inquiry, designed to inject a practical sense that judges sometimes lack. I respectfully dissent from that holding.

Syllabus

HINTON *v.* ALABAMA

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

No. 13–6440. Decided February 24, 2014

Petitioner Hinton was charged with two counts of capital murder. The case against him turned on whether the State's expert witnesses could convince the jury that six recovered bullets from three different crime scenes had been fired from Hinton's revolver. Hinton's attorney filed a motion for funding to hire his own "firearms and toolmark" expert. The trial judge granted the motion, but mistakenly believed that $500 per count was Alabama's statutory maximum. In fact, at the time, Alabama law permitted reimbursement for any reasonably incurred expenses. Although the judge offered counsel the opportunity to make a separate request for additional funds, counsel did not accept the invitation or discover the judge's error. Instead, counsel hired the only person willing to take the case for the pay he could offer, knowing that this expert was inadequate. That witness, Andrew Payne, was badly discredited on cross-examination. Hinton was convicted and sentenced to death. On postconviction review, Hinton contended that trial counsel was ineffective in failing to seek additional funds. He also produced three new toolmark experts to show that he had been prejudiced by Payne's testimony. The Circuit Court and the State Court of Criminal Appeals both held that Hinton had not been prejudiced by Payne's testimony, but the Supreme Court of Alabama reversed and remanded for consideration of whether Payne was qualified to testify. On remand, the lower courts held that Payne was qualified under the applicable standard, and the Alabama Supreme Court denied review.

Held: The Alabama courts failed to correctly apply the test for ineffective assistance of counsel under *Strickland* v. *Washington*, 466 U. S. 668. Hinton's attorney's failed to request additional funding to replace an expert he knew to be inadequate because he mistakenly believed that he had received all he could get under Alabama law. His ignorance of a point of law fundamental to his case, combined with his failure to perform basic research on that point, is a quintessential example of unreasonable performance under *Strickland*. Having established the first part of *Strickland*'s test, Hinton 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. The State contends that Payne said all that could be hoped for from a toolmark expert:

that the bullets used in the crimes could not have been fired from Hinton's revolver. Yet the jury did not believe him. If there is a reasonable probability that, but for counsel's errors, counsel would have hired an expert who could have testified more effectively and thereby instilled in the jury a reasonable doubt as to Hinton's guilt, then Hinton was prejudiced by counsel's deficient performance. Because no court has yet properly engaged in that inquiry here, the case is remanded for reconsideration of the question whether Hinton's attorney's performance was prejudicial under *Strickland*.

Certiorari granted; 172 So. 3d 355, vacated and remanded.

PER CURIAM.

In *Strickland* v. *Washington*, 466 U. S. 668 (1984), we held that a criminal defendant's Sixth Amendment right to counsel is violated if his trial attorney's performance falls below an objective standard of reasonableness and if there is a reasonable probability that the result of the trial would have been different absent the deficient act or omission. *Id.*, at 687–688, 694. Anthony Ray Hinton, an inmate on Alabama's death row, asks us to decide whether the Alabama courts correctly applied *Strickland* to his case. We conclude that they did not and hold that Hinton's trial attorney rendered constitutionally deficient performance. We vacate the lower court's judgment and remand the case for reconsideration of whether the attorney's deficient performance was prejudicial.

I

A

In February 1985, a restaurant manager in Birmingham was shot to death in the course of an afterhours robbery of his restaurant. A second manager was murdered during a very similar robbery of another restaurant in July. Then, later in July, a restaurant manager named Smotherman survived another similar robbery-shooting. During each crime, the robber fired two .38-caliber bullets; all six bullets were recovered by police investigators. Smotherman described his assailant to the police, and when the police showed him a photographic array, he picked out Hinton's picture.

The police arrested Hinton and recovered from his house a .38-caliber revolver belonging to his mother, who shared the house with him. After analyzing the six bullets fired during the three crimes and test-firing the revolver, examiners at the State's Department of Forensic Sciences concluded that the six bullets had all been fired from the same gun: the revolver found at Hinton's house. Hinton was charged with two counts of capital murder for the killings during the first two robberies. He was not charged in connection with the third robbery (that is, the Smotherman robbery).

At trial, the State's strategy was to link Hinton to the Smotherman robbery through eyewitness testimony and forensic evidence about the bullets fired at Smotherman and then to persuade the jury that, in light of the similarity of the three crimes and forensic analysis of the bullets and the Hinton revolver, Hinton must also have committed the two murders. Smotherman identified Hinton as the man who robbed his restaurant and tried to kill him, and two other witnesses provided testimony that tended to link Hinton to the Smotherman robbery. Hinton maintained that he was innocent and that Smotherman had misidentified him. In support of that defense, Hinton presented witnesses who testified in support of his alibi that he was at work at a warehouse at the time of the Smotherman robbery. See *Ex parte Hinton*, 548 So. 2d 562, 568–569 (Ala. 1989) (summarizing the evidence on each side of the case).

The six bullets and the revolver were the only physical evidence. Besides those items, the police found no evidence at the crime scenes that could be used to identify the perpetrator (such as fingerprints) and no incriminating evidence at Hinton's home or in his car. The State's case turned on whether its expert witnesses could convince the jury that the six recovered bullets had indeed been fired from the Hinton revolver. According to the Alabama Supreme Court, "the only evidence linking Hinton to the two murders were forensic comparisons of the bullets recovered from those

crime scenes to the Hinton revolver." 2008 WL 4603723, *2 (Oct. 17, 2008).

The category of forensic evidence at issue in this case is "firearms and toolmark" evidence. Toolmark examiners attempt to determine whether a bullet recovered from a crime scene was fired from a particular gun by comparing microscopic markings (toolmarks) on the recovered bullet to the markings on a bullet known to have been fired from that gun. The theory is that minor differences even between guns of the same model will leave discernible traces on bullets that are unique enough for an examiner to conclude that the recovered bullet was or was not fired from a given weapon. See generally National Research Council, Strengthening Forensic Science in the United States: A Path Forward 150–155 (2009).

Recognizing that Hinton's defense called for an effective rebuttal of the State's expert witnesses, Hinton's attorney filed a motion for funding to hire an expert witness of his own. In response, the trial judge granted $1,000 with this statement:

> "'I don't know as to what my limitations are as for how much I can grant, but I can grant up to $500.00 in each case [that is, for each of the two murder charges, which were tried together] as far as I know right now and I'm granting up to $500.00 in each of these two cases for this. So if you need additional experts I would go ahead and file on a separate form and I'll have to see if I can grant additional experts, but I am granting up to $500.00, which is the statutory maximum as far as I know on this and if it's necessary that we go beyond that then I may check to see if we can, but this one's granted.'" 172 So. 3d 249, 316–317 (Ala. Crim. App. 2006) (Cobb, J., dissenting) (quoting Tr. 10).

Hinton's attorney did not take the judge up on his invitation to file a request for more funding.

In fact, $500 per case ($1,000 total) was *not* the statutory maximum at the time of Hinton's trial. An earlier version of the statute had limited state reimbursement of expenses to one half of the $1,000 statutory cap on attorney's fees, which explains why the judge believed that Hinton was entitled to up to $500 for each of the two murder charges. See *Smelley* v. *State*, 564 So. 2d 74, 88 (Ala. Crim. App. 1990). But the relevant statute had been amended to provide: "'Counsel shall also be entitled to be reimbursed for any expenses reasonably incurred in such defense to be approved in advance by the trial court.'" *Dubose* v. *State*, 662 So. 2d 1156, 1177, n. 5 (Ala. Crim. App. 1993) (quoting Ala. Code § 15–12–21(d) (1984)), aff'd, 662 So. 2d 1189 (Ala. 1995). That amendment went into effect on June 13, 1984, *Dubose*, *supra*, at 1177, n. 5, which was over a year before Hinton was arrested, so Hinton's trial attorney could have corrected the trial judge's mistaken belief that a $1,000 limit applied and accepted his invitation to file a motion for additional funds.

The attorney failed to do so because he was himself unaware that Alabama law no longer imposed a specific limit and instead allowed reimbursement for "any expenses reasonably incurred." At an evidentiary hearing held on Hinton's postconviction petition, the following conversation occurred between a state attorney and Hinton's trial attorney:

> "Q. You did an awful lot of work to try and find what you believed to be a qualified expert in this case, didn't you?
>
> "A. Yes, sir, I did.
>
> "Q. Would you characterize it that you did everything that you knew to do?
>
> "A. Yes, sir, I think so.
>
> "Q. And this case, did it come down to an unwillingness of experts to work for the price that you were able to pay?
>
> "A. Yes, sir, I think it did.

> "Q. So your failure to get an expert that you would have been let's say a hundred percent satisfied with was not a failure on your part to go out and do some act, it was a failure of the court to approve what you believed would have been sufficient funds?
>
> "A. Well, putting it a little differently, yes, sir, it was a failure—*it was my failure, my inability under the statute to obtain any more funding for the purpose of hiring qualified experts*." Reporter's Official Tr. 206–207 (emphasis added).

Operating under the mistaken belief that he could pay no more than $1,000, Hinton's attorney went looking for an expert witness. According to his postconviction testimony, he made an extensive search for a well-regarded expert, but found only one person who was willing to take the case for the pay he could offer: Andrew Payne. Hinton's attorney "testified that Payne did not have the expertise he thought he needed and that he did not consider Payne's testimony to be effective." 2006 WL 1125605, *27. As he told the trial judge during a pretrial hearing:

> "I made an effort to get somebody that I thought would be useable. And I'll have to tell you what I did [about] Payne. I called a couple of other lawyers in town . . . to ask if they knew of anybody. One of them knew him; one of them knew him. The reason I didn't contact him was because he wasn't recommended by the lawyer. So now I'm stuck that he's the only guy I could possibly produce." *Id.*, at *30 (internal quotation marks omitted).

At trial, Payne testified that the toolmarks in the barrel of the Hinton revolver had been corroded away so that it would be impossible to say with certainty whether a particular bullet had been fired from that gun. He also testified that the bullets from the three crime scenes did not match one another. The State's two experts, by contrast, maintained that all six bullets had indeed been fired from the Hinton revolver.

On cross-examination, the prosecutor badly discredited Payne. Payne admitted that he'd testified as an expert on firearms and toolmark identification just twice in the preceding eight years and that one of the two cases involved a shotgun rather than a handgun. Payne also conceded that he had had difficulty operating the microscope at the state forensic laboratory and had asked for help from one of the state experts. The prosecutor ended the cross-examination with this colloquy:

> "Q. Mr. Payne, do you have some problem with your vision?
>
> "A. Why, yes.
>
> "Q. How many eyes do you have?
>
> "A. One." Tr. 1667.

The prosecutor's closing argument highlighted the fact that Payne's expertise was in military ordnance, not firearms and toolmark identification, and that Payne had graduated in 1933 (more than half a century before the trial) with a degree in civil engineering, whereas the State's experts had years of training and experience in the field of firearms and toolmark examination. The prosecutor said:

> "'I ask you to reject [Payne's] testimony and you have that option because you are the judges of the facts and whose testimony, Mr. Yates' or Mr. Payne's, you will give credence to, and I submit to you that as between these two men there is no match between them. There is no comparison. One man just doesn't have it and the other does it day in and day out, month in and month out, year in and year out, and is recognized across the state as an expert.'" 2006 WL 1125605, *64 (Cobb, J., dissenting) (quoting Tr. 1733–1734).

The jury convicted Hinton and recommended by a 10-to-2 vote that he be sentenced to death. The trial judge accepted that recommendation and imposed a death sentence.

B

In his state postconviction petition, Hinton contended that his trial attorney was "'ineffective to not seek additional funds when it became obvious that the individual willing to examine the evidence in the case for the $1,000 allotted by the court was incompetent and unqualified. Indeed, this failure to seek additional, sufficient funds is rendered all the more inexplicable by the trial court's express invitation to counsel to seek more funds if such funds were necessary.'" 172 So. 3d, at 285.

To show that he had been prejudiced by Payne's ineffective testimony, Hinton produced three new experts on toolmark evidence. One of the three, a forensic consultant named John Dillon, had worked on toolmark identification at the Federal Bureau of Investigation's forensics laboratory and, from 1988 until he retired in 1994, had served as chief of the firearms and toolmark unit at the FBI's headquarters. The other two postconviction experts had worked for many years as firearms and toolmark examiners at the Dallas County Crime Laboratory and had each testified as toolmark experts in several hundred cases.

All three experts examined the physical evidence and testified that they could not conclude that any of the six bullets had been fired from the Hinton revolver. The State did not submit rebuttal evidence during the postconviction hearing, and one of Hinton's experts testified that, pursuant to the ethics code of his trade organization, the Association of Firearm and Tool Mark Examiners, he had asked the State's expert, Yates, to show him how he had determined that the recovered bullets had been fired from the Hinton revolver. Yates refused to cooperate.

C

The Circuit Court denied Hinton's postconviction petition on the ground that Hinton had not been prejudiced by Payne's allegedly poor performance because Payne's testi-

mony did not depart from what Hinton's postconviction experts had said: The bullets could not be affirmatively matched either to one another or to the Hinton revolver.

The Alabama Court of Criminal Appeals affirmed by a 3-to-2 vote. 172 So. 3d 249. The court agreed with the Circuit Court that Hinton had not been prejudiced because Payne's testimony, if believed by the jury, strongly supported the inference that Hinton was innocent. *Id.*, at 288–289. Then-Judge Cobb (who later became chief justice of the Alabama Supreme Court) dissented. In her view, Hinton's attorney had been ineffective in failing to seek additional funds to hire a better expert and Hinton had been prejudiced by that failure, meaning that he was entitled to a new trial. Then-Judge Shaw (who is now a justice of the Alabama Supreme Court) also dissented. He would have remanded the case to the Circuit Court to make a finding as to whether or not Payne was qualified to act as an expert on toolmark evidence. He stated that "[i]t goes without saying that, with knowledge that sufficient funds were available to have a qualified firearms and toolmarks expert, no reasonable criminal defense lawyer would seek out and hire an unqualified firearms witness." *Id.*, at 331.

The Supreme Court of Alabama reversed and remanded. 172 So. 3d 322 (2008) (*per curiam*). After quoting at length from Judge Shaw's dissent, the court stated, "We agree with Judge Shaw that 'the dispositive issue is whether Payne was a qualified firearms and toolmarks expert' and that in denying Hinton's [postconviction] petition the trial court did not directly rule on 'the issue whether Payne was qualified to be testifying in the first place.' " *Id.*, at 336–337 (quoting 172 So. 3d, at 329, 330 (opinion of Shaw, J.)). The State Supreme Court was thus focused on Payne's own qualifications, rather than on whether a better expert—one who could have been hired had the attorney learned that there was no funding cap and requested additional funds—would have made a more compelling case for Hinton.

On remand, the Circuit Court held that Payne was indeed qualified to testify as a firearms and toolmark expert witness under the Alabama evidentiary standard in place at the time of the trial, which required only that Payne have had "knowledge of firearms and toolmarks examination beyond that of an average layperson." 172 So. 3d 338, 344 (Ala. Crim. App. 2008); see also *Charles* v. *State*, 350 So. 2d 730, 733 (Ala. Crim. App. 1977) ("An 'expert witness' is one who can enlighten a jury more than the average man in the street. . . . An expert witness, by definition, is any person whose opportunity or means of knowledge in a specialized art or science is to some degree better than that found in the average juror or witness"). The appellate court affirmed the Circuit Court's ruling that Payne was qualified under the applicable standard. 172 So. 3d 355 (Ala. Crim. App. 2013). The Alabama Supreme Court denied review by a 4-to-3 vote, with two justices recused. Hinton then filed this petition for a writ of certiorari.

II

This case calls for a straightforward application of our ineffective-assistance-of-counsel precedents, beginning with *Strickland* v. *Washington*, 466 U. S. 668. *Strickland* recognized that the Sixth Amendment's guarantee that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence" entails that defendants are entitled to be represented by an attorney who meets at least a minimal standard of competence. *Id.*, at 685–687. "Under *Strickland*, we first determine whether counsel's representation 'fell below an objective standard of reasonableness.' Then we ask whether 'there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.'" *Padilla* v. *Kentucky*, 559 U. S. 356, 366 (2010) (quoting *Strickland*, *supra*, at 688, 694).

A

"The first prong—constitutional deficiency—is necessarily linked to the practice and expectations of the legal community: 'The proper measure of attorney performance remains simply reasonableness under prevailing professional norms.'" *Padilla*, *supra*, at 366 (quoting *Strickland*, 466 U. S., at 688). "In any case presenting an ineffectiveness claim, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances." *Id.*, at 688. Under that standard, it was unreasonable for Hinton's lawyer to fail to seek additional funds to hire an expert where that failure was based not on any strategic choice but on a mistaken belief that available funding was capped at $1,000.

"Criminal cases will arise where the only reasonable and available defense strategy requires consultation with experts or introduction of expert evidence." *Harrington* v. *Richter*, 562 U. S. 86, 106 (2011). This was such a case. As Hinton's trial attorney recognized, the core of the prosecution's case was the state experts' conclusion that the six bullets had been fired from the Hinton revolver, and effectively rebutting that case required a competent expert on the defense side. Hinton's attorney also recognized that Payne was not a good expert, at least with respect to toolmark evidence. Nonetheless, he felt he was "stuck" with Payne because he could not find a better expert willing to work for $1,000 and he believed that he was unable to obtain more than $1,000 to cover expert fees.

As discussed above, that belief was wrong: Alabama law in effect beginning more than a year before Hinton was arrested provided for state reimbursement of "any expenses reasonably incurred in such defense to be approved in advance by the trial court." Ala. Code § 15–12–21(d). And the trial judge expressly invited Hinton's attorney to file a request for further funds if he felt that more funding was necessary. Yet the attorney did not seek further funding.

The trial attorney's failure to request additional funding in order to replace an expert he knew to be inadequate because he mistakenly believed that he had received all he could get under Alabama law constituted deficient performance. Under *Strickland*, "strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation. In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U. S., at 690–691. Hinton's attorney knew that he needed more funding to present an effective defense, yet he failed to make even the cursory investigation of the state statute providing for defense funding for indigent defendants that would have revealed to him that he could receive reimbursement not just for $1,000 but for "any expenses reasonably incurred." An attorney's ignorance of a point of law that is fundamental to his case combined with his failure to perform basic research on that point is a quintessential example of unreasonable performance under *Strickland*. See, *e. g.*, *Williams* v. *Taylor*, 529 U. S. 362, 395 (2000) (finding deficient performance where counsel "failed to conduct an investigation that would have uncovered extensive records [that could be used for death penalty mitigation purposes], not because of any strategic calculation but because they incorrectly thought that state law barred access to such records"); *Kimmelman* v. *Morrison*, 477 U. S. 365, 385 (1986) (finding deficient performance where counsel failed to conduct pretrial discovery and that failure "was not based on 'strategy,' but on counsel's mistaken belie[f] that the State was obliged to take the initiative and turn over all of its inculpatory evidence to the defense").

We wish to be clear that the inadequate assistance of counsel we find in this case does not consist of the hiring of an

expert who, though qualified, was not qualified enough. The selection of an expert witness is a paradigmatic example of the type of "strategic choic[e]" that, when made "after thorough investigation of [the] law and facts," is "virtually unchallengeable." *Strickland*, 466 U. S., at 690. We do not today launch federal courts into examination of the relative qualifications of experts hired and experts that might have been hired. The only inadequate assistance of counsel here was the inexcusable mistake of law—the unreasonable failure to understand the resources that state law made available to him—that caused counsel to employ an expert that *he himself* deemed inadequate.

B

Having established deficient performance, Hinton must also "show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.*, at 694. "When a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the factfinder would have had a reasonable doubt respecting guilt." *Id.*, at 695.

The Court of Criminal Appeals held, and the State contends in its brief in opposition to certiorari, that Hinton could not have been prejudiced by his attorney's use of Payne rather than a more qualified expert because Payne said all that Hinton could have hoped for from a toolmark expert: that the bullets used in the crimes could not have been fired from the Hinton revolver. See 2006 WL 1125605, *31 ("[E]ven assuming that counsel's apparent ignorance that the cap on expert expenses had been lifted constituted deficient performance . . . , the appellant has not shown that he was prejudiced by that deficient performance"). It is true that Payne's testimony would have done Hinton a lot of good *if the jury had believed it*. But the jury did not believe

Payne. And if there is a reasonable probability that Hinton's attorney would have hired an expert who would have instilled in the jury a reasonable doubt as to Hinton's guilt had the attorney known that the statutory funding limit had been lifted, then Hinton was prejudiced by his lawyer's deficient performance and is entitled to a new trial.

That the State presented testimony from two experienced expert witnesses that tended to inculpate Hinton does not, taken alone, demonstrate that Hinton is guilty. Prosecution experts, of course, can sometimes make mistakes. Indeed, we have recognized the threat to fair criminal trials posed by the potential for incompetent or fraudulent prosecution forensics experts, noting that "[s]erious deficiencies have been found in the forensic evidence used in criminal trials. . . . One study of cases in which exonerating evidence resulted in the overturning of criminal convictions concluded that invalid forensic testimony contributed to the convictions in 60% of the cases." *Melendez-Diaz* v. *Massachusetts*, 557 U. S. 305, 319 (2009) (citing Garrett & Neufeld, Invalid Forensic Science Testimony and Wrongful Convictions, 95 Va. L. Rev. 1, 14 (2009)). This threat is minimized when the defense retains a competent expert to counter the testimony of the prosecution's expert witnesses; it is maximized when the defense instead fails to understand the resources available to it by law.

Because no court has yet evaluated the prejudice question by applying the proper inquiry to the facts of this case, we remand the case for reconsideration of whether Hinton's attorney's deficient performance was prejudicial under *Strickland*.

* * *

The petition for certiorari and Hinton's motion for leave to proceed *in forma pauperis* are granted, the judgment of the Court of Criminal Appeals of Alabama is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

Syllabus

WALDEN *v.* FIORE ET AL.

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

No. 12–574. Argued November 4, 2013—Decided February 25, 2014

Petitioner Walden, a Georgia police officer working as a deputized Drug Enforcement Administration agent at a Georgia airport, searched respondents and seized a large amount of cash. Respondents allege that after they returned to their Nevada residence, petitioner helped draft a false probable-cause affidavit in support of the funds' forfeiture and forwarded it to a United States attorney's office in Georgia. In the end, no forfeiture complaint was filed, and respondents' funds were returned. Respondents filed a tort suit against petitioner in Federal District Court in Nevada. The District Court dismissed the suit, finding that the Georgia search and seizure did not establish a basis to exercise personal jurisdiction in Nevada. The Ninth Circuit reversed, holding that the District Court could properly exercise jurisdiction because petitioner had submitted the false probable-cause affidavit with the knowledge that it would affect persons with significant Nevada connections.

Held: The District Court lacked personal jurisdiction over petitioner. Pp. 283–291.

(a) The Fourteenth Amendment's Due Process Clause constrains a State's authority to bind a nonresident defendant to a judgment of its courts, *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 291, and requires that the nonresident have "certain minimum contacts" with the forum State, *International Shoe Co.* v. *Washington*, 326 U. S. 310, 316. The inquiry into the "minimum contacts" necessary to create specific jurisdiction focuses "on the relationship among the defendant, the forum, and the litigation." *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 775. For a State to exercise jurisdiction consistent with due process, that relationship must arise out of contacts that the "defendant *himself*" creates with the forum, *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 475, and must be analyzed with regard to the defendant's contacts with the forum itself, not with persons residing there, see, *e. g.*, *International Shoe*, *supra*, at 319. The plaintiff cannot be the only link between the defendant and the forum. These same principles apply when intentional torts are involved. See *Calder* v. *Jones*, 465 U. S. 783, 788–789. Pp. 283–288.

(b) Petitioner lacks the "minimal contacts" with Nevada that are a prerequisite to the exercise of jurisdiction over him. No part of peti-

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tioner's course of conduct occurred in Nevada, and he formed no jurisdictionally relevant contacts with that forum. The Ninth Circuit reached its contrary conclusion by improperly shifting the analytical focus from petitioner's contacts with the forum to his contacts with respondents, obscuring the reality that none of petitioner's challenged conduct had anything to do with Nevada itself. Respondents emphasize that they suffered the "injury" caused by the delayed return of their funds while residing in Nevada, but *Calder* made clear that mere injury to a forum resident is not a sufficient connection to the forum. The proper question is whether the defendant's conduct connects him to the forum in a meaningful way: Here, respondents' claimed injury does not evince such a connection. The injury occurred in Nevada simply because that is where respondents chose to be when they desired to use the seized funds. Other possible contacts noted by the Ninth Circuit—that respondents' Nevada attorney contacted petitioner in Georgia, that cash seized in Georgia originated in Nevada, and that funds were returned to respondents in Nevada—are ultimately unavailing. Pp. 288–291.

688 F. 3d 558, reversed.

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

Jeffrey S. Bucholtz argued the cause and filed briefs for petitioner.

Melissa Arbus Sherry argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Delery*, *Deputy Solicitor General Stewart*, *Barbara L. Herwig*, *Mark W. Pennak*, and *Brant S. Levine*.

Thomas C. Goldstein argued the cause for respondents. With him on the brief were *Robert A. Nersesian*, *Thea Sankiewicz*, and *Kevin K. Russell*.*

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*Briefs of *amici curiae* urging reversal were filed for the State of Alabama et al. by *Luther Strange*, Attorney General of Alabama, *John C. Neiman, Jr.*, Solicitor General, *Andrew L. Brasher*, Deputy Solicitor General, and *Kasdin E. Miller*, Assistant Solicitor General, and by the Attorneys General for their respective jurisdictions as follows: *Thomas C. Horne* of Arizona, *Irvin B. Nathan* of the District of Columbia, *Samuel S. Olens* of Georgia, *David M. Louie* of Hawaii, *Lawrence G. Wasden* of

JUSTICE THOMAS delivered the opinion of the Court.

This case asks us to decide whether a court in Nevada may exercise personal jurisdiction over a defendant on the basis that he knew his allegedly tortious conduct in Georgia would delay the return of funds to plaintiffs with connections to Nevada. Because the defendant had no other contacts with Nevada, and because a plaintiff's contacts with the forum State cannot be "decisive in determining whether the defendant's due process rights are violated," *Rush* v. *Savchuk*, 444 U. S. 320, 332 (1980), we hold that the court in Nevada may not exercise personal jurisdiction under these circumstances.

I

Petitioner Anthony Walden serves as a police officer for the city of Covington, Georgia. In August 2006, petitioner was working at the Atlanta Hartsfield-Jackson Airport as a deputized agent of the Drug Enforcement Administration (DEA). As part of a task force, petitioner conducted investigative stops and other law enforcement functions in support of the DEA's airport drug interdiction program.

On August 8, 2006, Transportation Security Administration agents searched respondents Gina Fiore and Keith Gip-

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Idaho, *Gregory F. Zoeller* of Indiana, *Jack Conway* of Kentucky, *Janet T. Mills* of Maine, *Bill Schuette* of Michigan, *Jim Hood* of Mississippi, *Timothy C. Fox* of Montana, *Jon Bruning* of Nebraska, *Joseph A. Foster* of New Hampshire, *Wayne Stenehjem* of North Dakota, *Kathleen G. Kane* of Pennsylvania, *Alan Wilson* of South Carolina, *Robert E. Cooper, Jr.*, of Tennessee, and *John E. Swallow* of Utah; for the Chamber of Commerce of the United States of America by *Peter B. Rutledge* and *Kathryn Comerford Todd*; for the Federal Law Enforcement Officers Association by *Mark A. Perry* and *Porter N. Wilkinson*; and for the New England Legal Foundation et al. by *Benjamin G. Robbins* and *Martin J. Newhouse*.

Kathleen G. Sumner filed a brief for the Workers' Injury Law & Advocacy Group as *amicus curiae* urging affirmance.

A brief of *amicus curiae* was filed for Charles W. Adams by *Mr. Adams, pro se*.

son and their carry-on bags at the San Juan airport in Puerto Rico. They found almost $97,000 in cash. Fiore explained to DEA agents in San Juan that she and Gipson had been gambling at a casino known as the El San Juan, and that they had residences in both California and Nevada (though they provided only California identification). After respondents were cleared for departure, a law enforcement official at the San Juan airport notified petitioner's task force in Atlanta that respondents had boarded a plane for Atlanta, where they planned to catch a connecting flight to Las Vegas, Nevada.

When respondents arrived in Atlanta, petitioner and another DEA agent approached them at the departure gate for their flight to Las Vegas. In response to petitioner's questioning, Fiore explained that she and Gipson were professional gamblers. Respondents maintained that the cash they were carrying was their gambling "'bank'" and winnings. App. 15, 24. After using a drug-sniffing dog to perform a sniff test, petitioner seized the cash.[1] Petitioner advised respondents that their funds would be returned if they later proved a legitimate source for the cash. Respondents then boarded their plane.

After respondents departed, petitioner moved the cash to a secure location and the matter was forwarded to DEA headquarters. The next day, petitioner received a phone call from respondents' attorney in Nevada seeking return of the funds. On two occasions over the next month, petitioner also received documentation from the attorney regarding the legitimacy of the funds.

At some point after petitioner seized the cash, he helped draft an affidavit to show probable cause for forfeiture of the funds and forwarded that affidavit to a United States

[1] Respondents allege that the sniff test was "at best, inconclusive," and there is no indication in the pleadings that drugs or drug residue were ever found on or with the cash. App. 21.

attorney's office in Georgia.[2] According to respondents, the affidavit was false and misleading because petitioner misrepresented the encounter at the airport and omitted exculpatory information regarding the lack of drug evidence and the legitimate source of the funds. In the end, no forfeiture complaint was filed, and the DEA returned the funds to respondents in March 2007.

Respondents filed suit against petitioner in the United States District Court for the District of Nevada, seeking money damages under *Bivens* v. *Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971). Respondents alleged that petitioner violated their Fourth Amendment rights by (1) seizing the cash without probable cause; (2) keeping the money after concluding it did not come from drug-related activity; (3) drafting and forwarding a probable-cause affidavit to support a forfeiture action while knowing the affidavit contained false statements; (4) willfully seeking forfeiture while withholding exculpatory information; and (5) withholding that exculpatory information from the United States attorney's office.

The District Court granted petitioner's motion to dismiss. Relying on this Court's decision in *Calder* v. *Jones*, 465 U. S. 783 (1984), the court determined that petitioner's search of respondents and his seizure of the cash in Georgia did not establish a basis to exercise personal jurisdiction in Nevada. The court concluded that even if petitioner caused harm to respondents in Nevada while knowing they lived in Nevada, that fact alone did not confer jurisdiction. Because the court dismissed the complaint for lack of personal jurisdiction, it did not determine whether venue was proper.

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[2] The alleged affidavit is not in the record. Because this case comes to us at the motion-to-dismiss stage, we take respondents' factual allegations as true, including their allegations regarding the existence and content of the affidavit.

On appeal, a divided panel of the United States Court of Appeals for the Ninth Circuit reversed. The Court of Appeals assumed the District Court had correctly determined that petitioner's search and seizure in Georgia could not support exercise of jurisdiction in Nevada. The court held, however, that the District Court could properly exercise jurisdiction over "the false probable cause affidavit aspect of the case." 688 F. 3d 558, 577 (2011). According to the Court of Appeals, petitioner "expressly aimed" his submission of the allegedly false affidavit at Nevada by submitting the affidavit with knowledge that it would affect persons with a "significant connection" to Nevada.[3] *Id.*, at 581. After determining that the delay in returning the funds to respondents caused them "foreseeable harm" in Nevada and that the exercise of personal jurisdiction over petitioner was otherwise reasonable, the court found the District Court's exercise of personal jurisdiction to be proper.[4] *Id.*, at 582, 585. The Ninth Circuit denied rehearing en banc, with eight judges, in two separate opinions, dissenting. *Id.*, at 562, 568.

We granted certiorari to decide whether due process permits a Nevada court to exercise jurisdiction over petitioner. 568 U. S. 1211 (2013). We hold that it does not and therefore reverse.[5]

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[3] The allegations in the complaint suggested to the Court of Appeals that petitioner "definitely knew, at some point *after* the seizure but *before* providing the alleged false probable cause affidavit, that [respondents] had a significant connection to Nevada." 688 F. 3d, at 578.

[4] Judge Ikuta dissented. In her view, the "false affidavit/forfeiture proceeding aspect" over which the majority found jurisdiction proper was not raised as a separate claim in the complaint, and she found it "doubtful that such a constitutional tort even exists." *Id.*, at 593. After the court denied rehearing en banc, the majority explained in a postscript that it viewed the filing of the false affidavit, which effected a "continued seizure" of the funds, as a separate Fourth Amendment violation. *Id.*, at 588–589. Petitioner does not dispute that reading here.

[5] We also granted certiorari on the question whether Nevada is a proper venue for the suit under 28 U. S. C. § 1391(b)(2). Because we resolve the case on jurisdictional grounds, we do not decide whether venue was proper in Nevada.

II

A

"Federal courts ordinarily follow state law in determining the bounds of their jurisdiction over persons." *Daimler AG* v. *Bauman*, *ante*, at 125. This is because a federal district court's authority to assert personal jurisdiction in most cases is linked to service of process on a defendant "who is subject to the jurisdiction of a court of general jurisdiction in the state where the district court is located." Fed. Rule Civ. Proc. 4(k)(1)(A). Here, Nevada has authorized its courts to exercise jurisdiction over persons "on any basis not inconsistent with . . . the Constitution of the United States." Nev. Rev. Stat. § 14.065 (2011). Thus, in order to determine whether the Federal District Court in this case was authorized to exercise jurisdiction over petitioner, we ask whether the exercise of jurisdiction "comports with the limits imposed by federal due process" on the State of Nevada. *Daimler*, *ante*, at 125.

B

1

The Due Process Clause of the Fourteenth Amendment constrains a State's authority to bind a nonresident defendant to a judgment of its courts. *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 291 (1980). Although a nonresident's physical presence within the territorial jurisdiction of the court is not required, the nonresident generally must have "certain minimum contacts . . . such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" *International Shoe Co.* v. *Washington*, 326 U. S. 310, 316 (1945) (quoting *Milliken* v. *Meyer*, 311 U. S. 457, 463 (1940)).

This case addresses the "minimum contacts" necessary to create specific jurisdiction.[6] The inquiry whether a forum

[6] "Specific" or "case-linked" jurisdiction "depends on an 'affiliatio[n] between the forum and the underlying controversy'" (*i. e.*, an "activity or an occurrence that takes place in the forum State and is therefore subject

State may assert specific jurisdiction over a nonresident defendant "focuses on 'the relationship among the defendant, the forum, and the litigation.'" *Keeton* v. *Hustler Magazine, Inc.*, 465 U. S. 770, 775 (1984) (quoting *Shaffer* v. *Heitner*, 433 U. S. 186, 204 (1977)). For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State. Two related aspects of this necessary relationship are relevant in this case.

First, the relationship must arise out of contacts that the "defendant *himself*" creates with the forum State. *Burger King Corp.* v. *Rudzewicz*, 471 U. S. 462, 475 (1985). Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant—not the convenience of plaintiffs or third parties. See *World-Wide Volkswagen Corp.*, *supra*, at 291–292. We have consistently rejected attempts to satisfy the defendant-focused "minimum contacts" inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State. See *Helicopteros Nacionales de Colombia, S. A.* v. *Hall*, 466 U. S. 408, 417 (1984) ("[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction"). We have thus rejected a plaintiff's argument that a Florida court could exercise personal jurisdiction over a trustee in Delaware based solely on the contacts of the trust's settlor, who was domiciled in Florida and had executed powers of appointment there. *Hanson* v. *Denckla*, 357 U. S. 235, 253–254 (1958). We have likewise held that Oklahoma courts could not exercise personal jurisdiction

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to the State's regulation"). *Goodyear Dunlop Tires Operations, S. A.* v. *Brown*, 564 U. S. 915, 919 (2011). This is in contrast to "general" or "all purpose" jurisdiction, which permits a court to assert jurisdiction over a defendant based on a forum connection unrelated to the underlying suit (*e. g.*, domicile). Respondents rely on specific jurisdiction only.

over an automobile distributor that supplies New York, New Jersey, and Connecticut dealers based only on an automobile purchaser's act of driving it on Oklahoma highways. *World-Wide Volkswagen Corp.*, *supra*, at 298. Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be "decisive in determining whether the defendant's due process rights are violated." *Rush*, 444 U. S., at 332.

Second, our "minimum contacts" analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there. See, *e. g.*, *International Shoe*, *supra*, at 319 (Due process "does not contemplate that a state may make binding a judgment *in personam* against an individual . . . with which the state has no contacts, ties, or relations"); *Hanson*, *supra*, at 251 ("However minimal the burden of defending in a foreign tribunal, a defendant may not be called upon to do so unless he has had the 'minimal contacts' with that State that are a prerequisite to its exercise of power over him"). Accordingly, we have upheld the assertion of jurisdiction over defendants who have purposefully "reach[ed] out beyond" their State and into another by, for example, entering a contractual relationship that "envisioned continuing and wide-reaching contacts" in the forum State, *Burger King*, *supra*, at 479–480, or by circulating magazines to "deliberately exploi[t]" a market in the forum State, *Keeton*, *supra*, at 781. And although physical presence in the forum is not a prerequisite to jurisdiction, *Burger King*, *supra*, at 476, physical entry into the State—either by the defendant in person or through an agent, goods, mail, or some other means—is certainly a relevant contact. See, *e. g.*, *Keeton*, *supra*, at 773–774.

But the plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him. See

Burger King, *supra*, at 478 ("If the question is whether an individual's contract with an out-of-state party *alone* can automatically establish sufficient minimum contacts in the other party's home forum, we believe the answer clearly is that it cannot"); *Kulko* v. *Superior Court of Cal., City and County of San Francisco*, 436 U. S. 84, 93 (1978) (declining to "find personal jurisdiction in a State . . . merely because [the plaintiff in a child support action] was residing there"). To be sure, a defendant's contacts with the forum State may be intertwined with his transactions or interactions with the plaintiff or other parties. But a defendant's relationship with a plaintiff or third party, standing alone, is an insufficient basis for jurisdiction. See *Rush*, *supra*, at 332 ("Naturally, the parties' relationships with each other may be significant in evaluating their ties to the forum. The requirements of *International Shoe*, however, must be met as to each defendant over whom a state court exercises jurisdiction"). Due process requires that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the "random, fortuitous, or attenuated" contacts he makes by interacting with other persons affiliated with the State. *Burger King*, 471 U. S., at 475 (internal quotation marks omitted).

2

These same principles apply when intentional torts are involved. In that context, it is likewise insufficient to rely on a defendant's "random, fortuitous, or attenuated contacts" or on the "unilateral activity" of a plaintiff. *Ibid.* (same). A forum State's exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on intentional conduct by the defendant that creates the necessary contacts with the forum.

Calder v. *Jones*, 465 U. S. 783, illustrates the application of these principles. In *Calder*, a California actress brought a libel suit in California state court against a reporter and an editor, both of whom worked for the National Enquirer at

its headquarters in Florida. The plaintiff's libel claims were based on an article written and edited by the defendants in Florida for publication in the National Enquirer, a national weekly newspaper with a California circulation of roughly 600,000.

We held that California's assertion of jurisdiction over the defendants was consistent with due process. Although we recognized that the defendants' activities "focus[ed]" on the plaintiff, our jurisdictional inquiry "focuse[d] on 'the relationship among the defendant, the forum, and the litigation.'" *Id.*, at 788 (quoting *Shaffer*, 433 U. S., at 204). Specifically, we examined the various contacts the defendants had created with California (and not just with the plaintiff) by writing the allegedly libelous story.

We found those forum contacts to be ample: The defendants relied on phone calls to "California sources" for the information in their article; they wrote the story about the plaintiff's activities in California; they caused reputational injury in California by writing an allegedly libelous article that was widely circulated in the State; and the "brunt" of that injury was suffered by the plaintiff in that State. 465 U. S., at 788–789. "In sum, California [wa]s the focal point both of the story and of the harm suffered." *Id.*, at 789. Jurisdiction over the defendants was "therefore proper in California based on the 'effects' of their Florida conduct in California." *Ibid.*

The crux of *Calder* was that the reputation-based "effects" of the alleged libel connected the defendants to California, not just to the plaintiff. The strength of that connection was largely a function of the nature of the libel tort. However scandalous a newspaper article might be, it can lead to a loss of reputation only if communicated to (and read and understood by) third persons. See Restatement (Second) of Torts § 577, Comment *b* (1976); see also *ibid.* ("[R]eputation is the estimation in which one's character is held by his neighbors or associates"). Accordingly, the reputational in-

jury caused by the defendants' story would not have occurred but for the fact that the defendants wrote an article for publication in California that was read by a large number of California citizens. Indeed, because publication to third persons is a necessary element of libel, see *id.*, § 558, the defendants' intentional tort actually occurred *in* California. *Keeton*, 465 U. S., at 777 ("The tort of libel is generally held to occur wherever the offending material is circulated"). In this way, the "effects" caused by the defendants' article—*i. e.*, the injury to the plaintiff's reputation in the estimation of the California public—connected the defendants' conduct to *California*, not just to a plaintiff who lived there. That connection, combined with the various facts that gave the article a California focus, sufficed to authorize the California court's exercise of jurisdiction.[7]

III

Applying the foregoing principles, we conclude that petitioner lacks the "minimal contacts" with Nevada that are a prerequisite to the exercise of jurisdiction over him. *Hanson*, 357 U. S., at 251. It is undisputed that no part of petitioner's course of conduct occurred in Nevada. Petitioner approached, questioned, and searched respondents, and seized the cash at issue, in the Atlanta airport. It is alleged that petitioner later helped draft a "false probable cause affidavit" in Georgia and forwarded that affidavit to a United States attorney's office in Georgia to support a potential action for forfeiture of the seized funds. 688 F. 3d, at 563.

[7] The defendants in *Calder* argued that no contacts they had with California were sufficiently purposeful because their employer was responsible for circulation of the article. See *Calder* v. *Jones*, 465 U. S. 783, 789 (1984). We rejected that argument. Even though the defendants did not circulate the article themselves, they "expressly aimed" "their intentional, and allegedly tortious, actions" at California because they knew the National Enquirer "ha[d] its largest circulation" in California, and that the article would "have a potentially devastating impact" there. *Id.*, at 789–790.

Petitioner never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada. In short, when viewed through the proper lens—whether the *defendant's* actions connect him to the *forum*—petitioner formed no jurisdictionally relevant contacts with Nevada.

The Court of Appeals reached a contrary conclusion by shifting the analytical focus from petitioner's contacts with the forum to his contacts with respondents. See *Rush*, 444 U. S., at 332. Rather than assessing petitioner's own contacts with Nevada, the Court of Appeals looked to petitioner's knowledge of respondents' "strong forum connections." 688 F. 3d, at 577–579, 581. In the court's view, that knowledge, combined with its conclusion that respondents suffered foreseeable harm in Nevada, satisfied the "minimum contacts" inquiry.[8] *Id.*, at 582.

This approach to the "minimum contacts" analysis impermissibly allows a plaintiff's contacts with the defendant and forum to drive the jurisdictional analysis. Petitioner's actions in Georgia did not create sufficient contacts with Nevada simply because he allegedly directed his conduct at plaintiffs whom he knew had Nevada connections. Such reasoning improperly attributes a plaintiff's forum connections to the defendant and makes those connections "decisive" in the jurisdictional analysis. See *Rush*, *supra*, at 332. It also obscures the reality that none of petitioner's challenged conduct had anything to do with Nevada itself.

Relying on *Calder*, respondents emphasize that they suffered the "injury" caused by petitioner's allegedly tortious conduct (*i. e.*, the delayed return of their gambling funds) while they were residing in the forum. Brief for Respondents 14. This emphasis is likewise misplaced. As pre-

[8] Respondents propose a substantially similar analysis. They suggest that "a defendant creates sufficient minimum contacts with a forum when he (1) intentionally targets (2) a known resident of the forum (3) for imposition of an injury (4) to be suffered by the plaintiff while she is residing in the forum state." Brief for Respondents 26–27.

viously noted, *Calder* made clear that mere injury to a forum resident is not a sufficient connection to the forum. Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way.

Respondents' claimed injury does not evince a connection between petitioner and Nevada. Even if we consider the continuation of the seizure in Georgia to be a distinct injury, it is not the sort of effect that is tethered to Nevada in any meaningful way. Respondents (and only respondents) lacked access to their funds in Nevada not because anything independently occurred there, but because Nevada is where respondents chose to be at a time when they desired to use the funds seized by petitioner. Respondents would have experienced this same lack of access in California, Mississippi, or wherever else they might have traveled and found themselves wanting more money than they had. Unlike the broad publication of the forum-focused story in *Calder*, the effects of petitioner's conduct on respondents are not connected to the forum State in a way that makes those effects a proper basis for jurisdiction.[9]

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[9] Respondents warn that if we decide petitioner lacks minimum contacts in this case, it will bring about unfairness in cases where intentional torts are committed via the Internet or other electronic means (*e. g.*, fraudulent access of financial accounts or "phishing" schemes). As an initial matter, we reiterate that the "minimum contacts" inquiry principally protects the liberty of the nonresident defendant, not the interests of the plaintiff. *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U. S. 286, 291–292 (1980). In any event, this case does not present the very different questions whether and how a defendant's virtual "presence" and conduct translate into "contacts" with a particular State. To the contrary, there is no question where the conduct giving rise to this litigation took place: Petitioner seized physical cash from respondents in the Atlanta airport, and he later

The Court of Appeals pointed to other possible contacts with Nevada, each ultimately unavailing. Respondents' Nevada attorney contacted petitioner in Georgia, but that is precisely the sort of "unilateral activity" of a third party that "cannot satisfy the requirement of contact with the forum State." *Hanson*, 357 U. S., at 253. Respondents allege that some of the cash seized in Georgia "originated" in Nevada, but that attenuated connection was not created by petitioner, and the cash was in Georgia, not Nevada, when petitioner seized it. Finally, the funds were eventually returned to respondents in Nevada, but petitioner had nothing to do with that return (indeed, it seems likely that it was respondents' unilateral decision to have their funds sent to Nevada).

* * *

Well-established principles of personal jurisdiction are sufficient to decide this case. The proper focus of the "minimum contacts" inquiry in intentional-tort cases is "'the relationship among the defendant, the forum, and the litigation.'" *Calder*, 465 U. S., at 788. And it is the defendant, not the plaintiff or third parties, who must create contacts with the forum State. In this case, the application of those principles is clear: Petitioner's relevant conduct occurred entirely in Georgia, and the mere fact that his conduct affected plaintiffs with connections to the forum State does not suffice to authorize jurisdiction. We therefore reverse the judgment of the Court of Appeals.

It is so ordered.

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drafted and forwarded an affidavit in Georgia. We leave questions about virtual contacts for another day.

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FERNANDEZ *v.* CALIFORNIA

CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

No. 12–7822. Argued November 13, 2013—Decided February 25, 2014

Police officers observed a suspect in a violent robbery run into an apartment building and heard screams coming from one of the apartments. They knocked on the apartment door, which was answered by Roxanne Rojas, who appeared to be battered and bleeding. When the officers asked her to step out of the apartment so that they could conduct a protective sweep, petitioner came to the door and objected. Suspecting that he had assaulted Rojas, the officers removed petitioner from the apartment and placed him under arrest. He was then identified as the perpetrator in the earlier robbery and taken to the police station. An officer later returned to the apartment and, after obtaining Rojas' oral and written consent, searched the premises, where he found several items linking petitioner to the robbery. The trial court denied petitioner's motion to suppress that evidence, and he was convicted. The California Court of Appeal affirmed. It held that because petitioner was not present when Rojas consented to the search, the exception to permissible warrantless consent searches of jointly occupied premises that arises when one of the occupants present objects to the search, *Georgia* v. *Randolph*, 547 U. S. 103, did not apply, and therefore, petitioner's suppression motion had been properly denied.

Held: *Randolph* does not extend to this situation, where Rojas' consent was provided well after petitioner had been removed from their apartment. Pp. 298–307.

(a) Consent searches are permissible warrantless searches, *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 228, 231–232, and are clearly reasonable when the consent comes from the sole occupant of the premises. When multiple occupants are involved, the rule extends to the search of the premises or effects of an absent, nonconsenting occupant so long as "the consent of one who possesses common authority over [the] premises or effects" is obtained. *United States* v. *Matlock*, 415 U. S. 164, 170. However, when "a physically present inhabitan[t]" refuses to consent, that refusal "is dispositive as to him, regardless of the consent of a fellow occupant." *Randolph*, 547 U. S., at 122–123. A controlling factor in *Randolph* was the objecting occupant's physical presence. See, *e. g.*, *id.*, at 106, 108, 109, 114. Pp. 298–301.

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(b) Petitioner contends that, though he was not present when Rojas consented, *Randolph* nevertheless controls, but neither of his arguments is sound. Pp. 301–306.

(1) He first argues that his absence should not matter since it occurred only because the police had taken him away. Dictum in *Randolph* suggesting that consent by one occupant might not be sufficient if "there is evidence that the police have removed the potentially objecting tenant from the entrance for the sake of avoiding a possible objection," 547 U. S., at 121, is best understood to refer to situations in which the removal of the potential objector is not objectively reasonable. Petitioner does not contest the fact that the police had reasonable grounds for his removal or the existence of probable cause for his arrest. He was thus in the same position as an occupant absent for any other reason. Pp. 302–303.

(2) Petitioner also argues that the objection he made while at the threshold remained effective until he changed his mind and withdrew it. This is inconsistent with *Randolph* in at least two important ways. It cannot be squared with the "widely shared social expectations" or "customary social usage" upon which *Randolph*'s holding was based. 547 U. S., at 111, 121. It also creates the sort of practical complications that *Randolph* sought to avoid by adopting a "formalis[tic]" rule, *id.*, at 121, *e. g.*, requiring that the scope of an objection's duration and the procedures necessary to register a continuing objection be defined. Pp. 303–306.

(c) Petitioner claims that his expansive interpretation of *Randolph* would not hamper law enforcement because in most cases where officers have probable cause to arrest a physically present objector they also have probable cause to obtain a warrant to search the premises that the objector does not want them to enter. But he misunderstands the constitutional status of consent searches, which are permissible irrespective of the availability of a warrant. Requiring officers to obtain a warrant when a warrantless search is justified may interfere with law enforcement strategies and impose an unmerited burden on the person willing to consent to an immediate search. Pp. 306–307.

208 Cal. App. 4th 100, 145 Cal. Rptr. 3d 51, affirmed.

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, and BREYER, JJ., joined. SCALIA, J., *post*, p. 307, and THOMAS, J., *post*, p. 309, filed concurring opinions. GINSBURG, J., filed a dissenting opinion, in which SOTOMAYOR and KAGAN, JJ., joined, *post*, p. 310.

Jeffrey L. Fisher argued the cause for petitioner. With him on the briefs were *Gerald P. Peters*, by appointment

of the Court, 570 U. S. 930, *Pamela S. Karlan*, and *Kevin K. Russell*.

Louis W. Karlin, Deputy Attorney General of California, argued the cause for respondent. With him on the brief were *Kamala D. Harris*, Attorney General, *Dane R. Gillette*, Chief Assistant Attorney General, *Donald E. de Nicola*, Deputy State Solicitor General, *Lance E. Winters*, Senior Assistant Attorney General, and *Steven E. Mercer*, Deputy Attorney General.

Joseph R. Palmore argued the cause for the United States as *amicus curiae* urging affirmance. With him on the brief were *Solicitor General Verrilli*, *Acting Assistant Attorney General Raman*, and *Deputy Solicitor General Dreeben*.*

JUSTICE ALITO delivered the opinion of the Court.

Our cases firmly establish that police officers may search jointly occupied premises if one of the occupants[1] consents. See *United States* v. *Matlock*, 415 U. S. 164 (1974). In *Georgia* v. *Randolph*, 547 U. S. 103 (2006), we recognized a narrow exception to this rule, holding that the consent of one occupant is insufficient when another occupant is present and objects to the search. In this case, we consider whether *Randolph* applies if the objecting occupant is absent when another occupant consents. Our opinion in *Randolph* took great pains to emphasize that its holding was limited to situations in which the objecting occupant is physically present. We therefore refuse to extend *Randolph* to the very different situation in this case, where consent was provided by an abused woman well after her male partner had been removed from the apartment they shared.

**Jeffrey A. Lamken* and *David M. Porter* filed a brief for the National Association of Criminal Defense Lawyers as *amicus curiae* urging reversal.

[1] We use the terms "occupant," "resident," and "tenant" interchangeably to refer to persons having "common authority" over premises within the meaning of *Matlock*. See *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974).

I

A

The events involved in this case occurred in Los Angeles in October 2009. After observing Abel Lopez cash a check, petitioner Walter Fernandez approached Lopez and asked about the neighborhood in which he lived. When Lopez responded that he was from Mexico, Fernandez laughed and told Lopez that he was in territory ruled by the "D. F. S.," *i. e.*, the "Drifters" gang. App. 4–5. Petitioner then pulled out a knife and pointed it at Lopez' chest. Lopez raised his hand in self-defense, and petitioner cut him on the wrist.

Lopez ran from the scene and called 911 for help, but petitioner whistled, and four men emerged from a nearby apartment building and attacked Lopez. After knocking him to the ground, they hit and kicked him and took his cell phone and his wallet, which contained $400 in cash.

A police dispatch reported the incident and mentioned the possibility of gang involvement, and two Los Angeles police officers, Detective Clark and Officer Cirrito, drove to an alley frequented by members of the Drifters. A man who appeared scared walked by the officers and said: "'[T]he guy is in the apartment.'" *Id.*, at 5. The officers then observed a man run through the alley and into the building to which the man was pointing. A minute or two later, the officers heard sounds of screaming and fighting coming from that building.

After backup arrived, the officers knocked on the door of the apartment unit from which the screams had been heard. Roxanne Rojas answered the door. She was holding a baby and appeared to be crying. Her face was red, and she had a large bump on her nose. The officers also saw blood on her shirt and hand from what appeared to be a fresh injury. Rojas told the police that she had been in a fight. Officer Cirrito asked if anyone else was in the apartment, and Rojas said that her 4-year-old son was the only other person present.

After Officer Cirrito asked Rojas to step out of the apartment so that he could conduct a protective sweep, petitioner appeared at the door wearing only boxer shorts. Apparently agitated, petitioner stepped forward and said, "'You don't have any right to come in here. I know my rights.'" *Id.*, at 6. Suspecting that petitioner had assaulted Rojas, the officers removed him from the apartment and then placed him under arrest. Lopez identified petitioner as his initial attacker, and petitioner was taken to the police station for booking.

Approximately one hour after petitioner's arrest, Detective Clark returned to the apartment and informed Rojas that petitioner had been arrested. Detective Clark requested and received both oral and written consent from Rojas to search the premises.[2] In the apartment, the police found Drifters gang paraphernalia, a butterfly knife, clothing worn by the robbery suspect, and ammunition. Rojas' young son also showed the officers where petitioner had hidden a sawed-off shotgun.

B

Petitioner was charged with robbery, Cal. Penal Code Ann. §211 (West 2008), infliction of corporal injury on a spouse, cohabitant, or child's parent, §273.5(a), possession of a firearm by a felon, §12021(a)(1) (West 2009), possession of a

[2] Both petitioner and the dissent suggest that Rojas' consent was coerced. *Post*, at 317, n. 5 (opinion of GINSBURG, J.). But the trial court found otherwise, App. 152, and the correctness of that finding is not before us. In suggesting that Rojas' consent was coerced, the dissent recites portions of Rojas' testimony from the suppression hearing that the trial judge appears to have rejected. *Post*, at 317, n. 5. Similarly, the jury plainly did not find Rojas to be credible. At trial, she testified for the defense and told the jury, among other things, that the wounds observed by the officers who came to her door were not inflicted by petitioner but by a woman looking for petitioner during a fight. 208 Cal. App. 4th 100, 109–110, 145 Cal. Rptr. 3d 51, 56 (2012). The jury obviously did not believe this testimony because it found petitioner guilty of inflicting corporal injury on her.

short-barreled shotgun, § 12020(a)(1), and felony possession of ammunition, § 12316(b)(1).

Before trial, petitioner moved to suppress the evidence found in the apartment, but after a hearing, the court denied the motion. Petitioner then pleaded *nolo contendere* to the firearms and ammunition charges. On the remaining counts—for robbery and infliction of corporal injury—he went to trial and was found guilty by a jury. The court sentenced him to 14 years of imprisonment.

The California Court of Appeal affirmed. 208 Cal. App. 4th 100, 145 Cal. Rptr. 3d 51 (2012). Because *Randolph* did not overturn our prior decisions recognizing that an occupant may give effective consent to search a shared residence, the court agreed with the majority of the federal circuits that an objecting occupant's physical presence is "indispensible to the decision in *Randolph*." 208 Cal. App. 4th, at 122, 145 Cal. Rptr. 3d, at 66.[3] And because petitioner was not present when Rojas consented, the court held that petition-

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[3] See *United States* v. *Cooke*, 674 F. 3d 491, 498 (CA5 2012) ("*Randolph* was a narrow exception to the general *Matlock* rule permitting cotenant consent, relevant only as to physically present objectors"); *United States* v. *Hudspeth*, 518 F. 3d 954, 960 (CA8 2008) (concluding that "the narrow holding of *Randolph*, which repeatedly referenced the defendant's physical presence *and* immediate objection is inapplicable"); *United States* v. *Henderson*, 536 F. 3d 776, 777 (CA7 2008) (recognizing that "*Randolph* left the bulk of third-party consent law in place; its holding applies only when the defendant is both present and objects to the search of his home"); *United States* v. *McKerrell*, 491 F. 3d 1221, 1227 (CA10 2007) ("*Randolph* carefully delineated the narrow circumstances in which its holding applied, and . . . *Randolph* consciously employed a rule requiring an express objection by a present co-tenant"); but see *United States* v. *Murphy*, 516 F. 3d 1117, 1124–1125 (CA9 2008) (holding that "when a co-tenant objects to a search and another party with common authority subsequently gives consent to that search in the absence of the first co-tenant the search is invalid as to the objecting co-tenant" because "[o]nce a co-tenant has registered his objection, his refusal to grant consent remains effective barring some objective manifestation that he has changed his position and no longer objects").

er's suppression motion had been properly denied. *Id.*, at 121, 145 Cal. Rptr. 3d, at 65.

The California Supreme Court denied the petition for review, and we granted certiorari. 569 U. S. 993 (2013).

II

A

The Fourth Amendment prohibits unreasonable searches and seizures and provides that a warrant may not be issued without probable cause, but "the text of the Fourth Amendment does not specify when a search warrant must be obtained." *Kentucky* v. *King*, 563 U. S. 452, 459 (2011). Our cases establish that a warrant is generally required for a search of a home, *Brigham City* v. *Stuart*, 547 U. S. 398, 403 (2006), but "the ultimate touchstone of the Fourth Amendment is 'reasonableness,'" *ibid.*; see also *Michigan* v. *Fisher*, 558 U. S. 45, 47 (2009) (*per curiam*). And certain categories of permissible warrantless searches have long been recognized.

Consent searches occupy one of these categories. "Consent searches are part of the standard investigatory techniques of law enforcement agencies" and are "a constitutionally permissible and wholly legitimate aspect of effective police activity." *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 228, 231–232 (1973). It would be unreasonable—indeed, absurd—to require police officers to obtain a warrant when the sole owner or occupant of a house or apartment voluntarily consents to a search. The owner of a home has a right to allow others to enter and examine the premises, and there is no reason why the owner should not be permitted to extend this same privilege to police officers if that is the owner's choice. Where the owner believes that he or she is under suspicion, the owner may want the police to search the premises so that their suspicions are dispelled. This may be particularly important where the owner has a strong interest in the apprehension of the perpetrator of a crime and believes

that the suspicions of the police are deflecting the course of their investigation. An owner may want the police to search even where they lack probable cause, and if a warrant were always required, this could not be done. And even where the police could establish probable cause, requiring a warrant despite the owner's consent would needlessly inconvenience everyone involved—not only the officers and the magistrate but also the occupant of the premises, who would generally either be compelled or would feel a need to stay until the search was completed. *Michigan* v. *Summers*, 452 U. S. 692, 701 (1981).[4]

While it is clear that a warrantless search is reasonable when the sole occupant of a house or apartment consents, what happens when there are two or more occupants? Must they all consent? Must they all be asked? Is consent by one occupant enough? The Court faced that problem 40 years ago in *United States* v. *Matlock*, 415 U. S. 164 (1974).

In that case, Matlock and a woman named Graff were living together in a house that was also occupied by several of Graff's siblings and by her mother, who had rented the house. While in the front yard of the house, Matlock was arrested for bank robbery and was placed in a squad car. Although the police could have easily asked him for consent to search the room that he and Graff shared, they did not do so. Instead, they knocked on the door and obtained Graff's permission to search. The search yielded incriminating evidence, which the defendant sought to suppress, but this Court held that Graff's consent justified the warrantless search. As the Court put it, "the consent of one who pos-

[4] A main theme of the dissent is that the police in this case had probable cause to search the apartment and therefore could have obtained a warrant. Of course, this will not always be so in cases in which one occupant consents to a search and the other objects, and the dissent does not suggest that a warrant should be required only when probable cause is present. As a result, the dissent's repeated references to the availability of a warrant in this case are beside the point.

sesses common authority over premises or effects is valid as against the absent, nonconsenting person with whom that authority is shared." *Id.*, at 170.

In *Illinois* v. *Rodriguez*, 497 U. S. 177 (1990), the Court reaffirmed and extended the *Matlock* holding. In *Rodriguez*, a woman named Fischer told police officers that she had been assaulted by Rodriguez in what she termed "'our' apartment." 497 U. S., at 179. She also informed the officers that Rodriguez was asleep in the apartment, and she then accompanied the officers to that unit. When they arrived, the officers could have knocked on the door and awakened Rodriguez, and had they done so, Rodriguez might well have surrendered at the door and objected to the officers' entry. Instead, Fischer unlocked the door, the officers entered without a warrant, and they saw drug paraphernalia and containers filled with white powder in plain view.

After the search, the police learned that Fischer no longer resided at the apartment, and this Court held that she did not have common authority over the premises at the time in question. The Court nevertheless held that the warrantless entry was lawful if the police reasonably believed that Fischer was a resident. *Id.*, at 188–189.

B

While consent by one resident of jointly occupied premises is generally sufficient to justify a warrantless search, we recognized a narrow exception to this rule in *Randolph*, 547 U. S. 103. In that case, police officers responded to the Randolphs' home after receiving a report of a domestic dispute. When the officers arrived, Janet Randolph informed the officers that her estranged husband, Scott Randolph, was a cocaine user and that there were "items of drug evidence" in the house. *Id.*, at 107 (internal quotation marks omitted). The officers first asked Scott for consent to search, but he "unequivocally refused." *Ibid.* The officers then turned to Janet, and

she consented to the search, which produced evidence that was later used to convict Scott for possession of cocaine.

Without questioning the prior holdings in *Matlock* and *Rodriguez*, this Court held that Janet Randolph's consent was insufficient under the circumstances to justify the warrantless search. The Court reiterated the proposition that a person who shares a residence with others assumes the risk that "any one of them may admit visitors, with the consequence that a guest obnoxious to one may nevertheless be admitted in his absence by another." 547 U. S., at 111. But the Court held that "*a physically present inhabitant's* express refusal of consent to a police search [of his home] is dispositive as to him, regardless of the consent of a fellow occupant." *Id.*, at 122–123 (emphasis added).

The Court's opinion went to great lengths to make clear that its holding was limited to situations in which the objecting occupant is present. Again and again, the opinion of the Court stressed this controlling factor. See *id.*, at 106 ("present at the scene"); *ibid.* ("physically present"); *id.*, at 108 ("a co-tenant who is present"); *id.*, at 109 ("physically present"); *id.*, at 114 ("a present and objecting co-tenant"); *id.*, at 119 (a co-tenant "standing at the door and expressly refusing consent"); *id.*, at 120 ("a physically present resident"); *id.*, at 121 ("a physically present fellow tenant objects"); *ibid.* ("[A] potential defendant with self-interest in objecting is at the door and objects"); *id.*, at 122 ("[A] physically present inhabitant's express refusal of consent to a police search is dispositive as to him"). The Court's opinion could hardly have been clearer on this point, and the separate opinion filed by JUSTICE BREYER, whose vote was decisive, was equally unambiguous. See *id.*, at 126 (concurring opinion) ("The Court's opinion does not apply where the objector is not present 'and object[ing]' ").

III

In this case, petitioner was not present when Rojas consented, but petitioner still contends that *Randolph* is

controlling. He advances two main arguments. First, he claims that his absence should not matter since he was absent only because the police had taken him away. Second, he maintains that it was sufficient that he objected to the search while he was still present. Such an objection, he says, should remain in effect until the objecting party "no longer wishes to keep the police out of his home." Brief for Petitioner 8. Neither of these arguments is sound.

A

We first consider the argument that the presence of the objecting occupant is not necessary when the police are responsible for his absence. In *Randolph*, the Court suggested in dictum that consent by one occupant might not be sufficient if there is "evidence that the police have removed the potentially objecting tenant from the entrance for the sake of avoiding a possible objection." 547 U. S., at 121. We do not believe the statement should be read to suggest that improper motive may invalidate objectively justified removal. Hence, it does not govern here.

The *Randolph* dictum is best understood not to require an inquiry into the subjective intent of officers who detain or arrest a potential objector but instead to refer to situations in which the removal of the potential objector is not objectively reasonable. As petitioner acknowledges, see Brief for Petitioner 25, our Fourth Amendment cases "have repeatedly rejected" a subjective approach. *Brigham City*, 547 U. S., at 404. "Indeed, we have never held, outside limited contexts such as an 'inventory search or administrative inspection . . . , that an officer's motive invalidates objectively justifiable behavior under the Fourth Amendment.'" *King*, 563 U. S., at 464.

Petitioner does not claim that the *Randolph* Court meant to break from this consistent practice, and we do not think that it did. And once it is recognized that the test is one of objective reasonableness, petitioner's argument collapses.

He does not contest the fact that the police had reasonable grounds for removing him from the apartment so that they could speak with Rojas, an apparent victim of domestic violence, outside of petitioner's potentially intimidating presence. In fact, he does not even contest the existence of probable cause to place him under arrest. We therefore hold that an occupant who is absent due to a lawful detention or arrest stands in the same shoes as an occupant who is absent for any other reason.

This conclusion does not "make a mockery of *Randolph*," as petitioner protests. Brief for Petitioner 9. It simply accepts *Randolph* on its own terms. The *Randolph* holding unequivocally requires the presence of the objecting occupant in every situation other than the one mentioned in the dictum discussed above.

B

This brings us to petitioner's second argument, viz., that his objection, made at the threshold of the premises that the police wanted to search, remained effective until he changed his mind and withdrew his objection. This argument is inconsistent with *Randolph*'s reasoning in at least two important ways. First, the argument cannot be squared with the "widely shared social expectations" or "customary social usage" upon which the *Randolph* holding was based. See 547 U. S., at 111, 121. Explaining why consent by one occupant could not override an objection by a physically present occupant, the *Randolph* Court stated:

> "[I]t is fair to say that a caller standing at the door of shared premises would have no confidence that one occupant's invitation was a sufficiently good reason to enter when a fellow tenant stood there saying, 'stay out.' Without some very good reason, no sensible person would go inside under those conditions." *Id.*, at 113.

It seems obvious that the calculus of this hypothetical caller would likely be quite different if the objecting tenant

was not standing at the door. When the objecting occupant is standing at the threshold saying "stay out," a friend or visitor invited to enter by another occupant can expect at best an uncomfortable scene and at worst violence if he or she tries to brush past the objector. But when the objector is not on the scene (and especially when it is known that the objector will not return during the course of the visit), the friend or visitor is much more likely to accept the invitation to enter.[5] Thus, petitioner's argument is inconsistent with *Randolph*'s reasoning.

Second, petitioner's argument would create the very sort of practical complications that *Randolph* sought to avoid. The *Randolph* Court recognized that it was adopting a "formalis[tic]" rule, but it did so in the interests of "simple clarity" and administrability. *Id.*, at 121, 122.

The rule that petitioner would have us adopt would produce a plethora of practical problems. For one thing, there is the question of duration. Petitioner argues that an objection, once made, should last until it is withdrawn by the objector, but such a rule would be unreasonable. Suppose that a husband and wife owned a house as joint tenants and that the husband, after objecting to a search of the house,

[5] Although the dissent intimates that "customary social usage" goes further than this, see *post*, at 313, the dissent provides no support for this doubtful proposition. In the present case, for example, suppose that Rojas had called a relative, a friend, a supportive neighbor, or a person who works for a group that aids battered women and had invited that individual to enter and examine the premises while petitioner was in jail. Would any of those invitees have felt that it was beyond Rojas' authority to extend that invitation over petitioner's objection?

Instead of attempting to show that such persons would have felt it improper to accept this invitation, the dissent quickly changes the subject and says that "conjectures about social behavior shed little light on the constitutionality" of the search in this case. *Ibid.* But the holding in *Georgia* v. *Randolph*, 547 U. S. 103 (2006), was based on "widely shared social expectations" and "customary social usage." See *id.*, at 111, 121. Thus, the dissent simply fails to come to grips with the reasoning of the precedent on which it relies.

was convicted and sentenced to a 15-year prison term. Under petitioner's proposed rule, the wife would be unable to consent to a search of the house 10 years after the date on which her husband objected. We refuse to stretch *Randolph* to such strange lengths.

Nor are we persuaded to hold that an objection lasts for a "reasonable" time. "[I]t is certainly unusual for this Court to set forth precise time limits governing police action," *Maryland* v. *Shatzer*, 559 U. S. 98, 110 (2010), and what interval of time would be reasonable in this context? A week? A month? A year? Ten years?

Petitioner's rule would also require the police and ultimately the courts to determine whether, after the passage of time, an objector still had "common authority" over the premises, and this would often be a tricky question. Suppose that an incarcerated objector and a consenting cooccupant were joint tenants on a lease. If the objector, after incarceration, stopped paying rent, would he still have "common authority," and would his objection retain its force? Would it be enough that his name remained on the lease? Would the result be different if the objecting and consenting lessees had an oral month-to-month tenancy?

Another problem concerns the procedure needed to register a continuing objection. Would it be necessary for an occupant to object while police officers are at the door? If presence at the time of consent is not needed, would an occupant have to be present at the premises when the objection was made? Could an objection be made pre-emptively? Could a person like Scott Randolph, suspecting that his estranged wife might invite the police to view his drug stash and paraphernalia, register an objection in advance? Could this be done by posting a sign in front of the house? Could a standing objection be registered by serving notice on the chief of police?

Finally, there is the question of the particular law enforcement officers who would be bound by an objection. Would

this set include just the officers who were present when the objection was made? Would it also apply to other officers working on the same investigation? Would it extend to officers who were unaware of the objection? How about officers assigned to different but arguably related cases? Would it be limited by law enforcement agency?

If *Randolph* is taken at its word—that it applies only when the objector is standing in the door saying "stay out" when officers propose to make a consent search—all of these problems disappear.

In response to these arguments, petitioner argues that *Randolph*'s requirement of physical presence is not without its own ambiguity. And we acknowledge that if, as we conclude, *Randolph* requires presence on the premises to be searched, there may be cases in which the outer boundary of the premises is disputed. The Court confronted a similar problem last Term in *Bailey* v. *United States*, 568 U. S. 186 (2013), but despite arguments similar to those now offered by petitioner, the Court adopted a rule that applies only when the affected individual is near the premises being searched. Having held that a premises rule is workable in that context, we see no ground for reaching a different conclusion here.

C

Petitioner argues strenuously that his expansive interpretation of *Randolph* would not hamper law enforcement because in most cases where officers have probable cause to arrest a physically present objector they also have probable cause to search the premises that the objector does not want them to enter, see Brief for Petitioner 20–23, but this argument misunderstands the constitutional status of consent searches. A warrantless consent search is reasonable and thus consistent with the Fourth Amendment irrespective of the availability of a warrant. Even with modern technological advances, the warrant procedure imposes burdens on the officers who wish to search, the magistrate who must review

the warrant application, and the party willing to give consent. When a warrantless search is justified, requiring the police to obtain a warrant may "unjustifiably interfer[e] with legitimate law enforcement strategies." *King*, 563 U. S., at 466. Such a requirement may also impose an unmerited burden on the person who consents to an immediate search, since the warrant application procedure entails delay. Putting the exception the Court adopted in *Randolph* to one side, the lawful occupant of a house or apartment should have the right to invite the police to enter the dwelling and conduct a search. Any other rule would trample on the rights of the occupant who is willing to consent. Such an occupant may want the police to search in order to dispel "suspicion raised by sharing quarters with a criminal." 547 U. S., at 116; see also *Schneckloth*, 412 U. S., at 243 (evidence obtained pursuant to a consent search "may insure that a wholly innocent person is not wrongly charged with a criminal offense"). And an occupant may want the police to conduct a thorough search so that any dangerous contraband can be found and removed. In this case, for example, the search resulted in the discovery and removal of a sawed-off shotgun to which Rojas' 4-year-old son had access.

Denying someone in Rojas' position the right to allow the police to enter *her* home would also show disrespect for her independence. Having beaten Rojas, petitioner would bar her from controlling access to her own home until such time as he chose to relent. The Fourth Amendment does not give him that power.

* * *

The judgment of the California Court of Appeal is affirmed.

It is so ordered.

JUSTICE SCALIA, concurring.

Like JUSTICE THOMAS, I believe *Georgia* v. *Randolph*, 547 U. S. 103 (2006), was wrongly decided. I nonetheless join

the Court's opinion because it is a faithful application of *Randolph*. I write separately to address the argument that the search of petitioner's shared apartment violated the Fourth Amendment because he had a right under property law to exclude the police. See Brief for National Association of Criminal Defense Lawyers as *Amicus Curiae* 17–23. The United States dismisses that argument, pointing to our statement in *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974), that a cotenant's ability to consent to a search "does not rest upon the law of property, with its attendant historical and legal refinements." See Brief for United States as *Amicus Curiae* 23.

I do not think the argument can be so easily dismissed. To be sure, under *Katz* v. *United States*, 389 U. S. 347 (1967), "property rights 'are not the sole measure of Fourth Amendment violations.'" *Florida* v. *Jardines*, 569 U. S. 1, 5 (2013). But as we have recently made clear, "[t]he *Katz* reasonable-expectations test 'has been *added to*, not *substituted for*,' the traditional property-based understanding of the Fourth Amendment." *Id.*, at 11 (quoting *United States* v. *Jones*, 565 U. S. 400, 409 (2012)). I would therefore find this a more difficult case if it were established that property law did not give petitioner's cotenant the right to admit visitors over petitioner's objection. That difficulty does not arise, however, because the authorities cited by the *amicus* association fail to establish that a guest would commit a trespass if one of two joint tenants invited the guest to enter and the other tenant forbade the guest to do so. Indeed, what limited authority there is on the subject points to the opposite conclusion. See, *e. g.*, 86 C. J. S., Tenancy in Common § 144, p. 354 (2006) (a licensee of one tenant "is not liable in trespass to nonconsenting cotenants"); *Dinsmore* v. *Renfroe*, 66 Cal. App. 207, 212–214, 225 P. 886, 888–889 (1924); *Buchanan* v. *Jencks*, 38 R. I. 443, 446–451, 96 A. 307, 309–311 (1916) (and cases cited therein); cf. 2 H. Tiffany, Real Property § 457,

p. 274 (3d ed. 1939) (endorsing the opposite view but acknowledging that "there is little authority" on the question). There accordingly is no basis for us to conclude that the police infringed on any property right of petitioner's when they entered the premises with his cotenant's consent.

JUSTICE THOMAS, concurring.

I join the opinion of the Court, which faithfully applies *Georgia* v. *Randolph*, 547 U. S. 103 (2006). I write separately to make clear the extent of my disagreement with *Randolph*.

I dissented in *Randolph* because the facts of that case did not implicate a Fourth Amendment search and never should have been analyzed as such. *Id.*, at 145 ("[N]o Fourth Amendment search occurs where . . . the spouse of an accused voluntarily leads the police to potential evidence of wrongdoing by the accused"). Instead of deciding the case on that narrow ground, the majority in *Randolph* looked to "widely shared social expectations" to resolve whether the wife's consent to a search should control over her husband's objection. *Id.*, at 111. I find no support for that novel analytical approach in the Fourth Amendment's text or history, or in this Court's jurisprudence. See *id.*, at 128–131 (ROBERTS, C. J., dissenting). Accordingly, given a blank slate, I would analyze this case consistent with THE CHIEF JUSTICE's dissent in *Randolph*: "A warrantless search is reasonable if police obtain the voluntary consent of a person authorized to give it." *Id.*, at 128. That is because "[c]o-occupants have 'assumed the risk that one of their number might permit [a] common area to be searched.' " *Ibid.* (quoting *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974)). In this case, the trial court found that Rojas' consent was voluntary, see *ante*, at 296, n. 2, and petitioner does not contest that Rojas had common authority over the premises. That should be the end of the matter.

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

The Fourth Amendment guarantees to the people "[t]he right . . . to be secure in their . . . houses . . . against unreasonable searches and seizures." Warrants to search premises, the Amendment further instructs, shall issue only when authorized by a neutral magistrate upon a showing of "probable cause" to believe criminal activity has occurred or is afoot. This Court has read these complementary provisions to convey that, "whenever practicable, [the police must] obtain advance judicial approval of searches and seizures through the warrant procedure." *Terry* v. *Ohio*, 392 U. S. 1, 20 (1968). The warrant requirement, Justice Jackson observed, ranks among the "fundamental distinctions between our form of government, where officers are under the law, and the police-state where they are the law." *Johnson* v. *United States*, 333 U. S. 10, 17 (1948). The Court has accordingly declared warrantless searches, in the main, "*per se* unreasonable." *Mincey* v. *Arizona*, 437 U. S. 385, 390 (1978) (internal quotation marks omitted); see *Groh* v. *Ramirez*, 540 U. S. 551, 559 (2004). If this main rule is to remain hardy, the Court has explained, exceptions to the warrant requirement must be "few in number and carefully delineated." *United States* v. *United States Dist. Court for Eastern Dist. of Mich.*, 407 U. S. 297, 318 (1972); see *Kyllo* v. *United States*, 533 U. S. 27, 31 (2001).

Instead of adhering to the warrant requirement, today's decision tells the police they may dodge it, never mind ample time to secure the approval of a neutral magistrate. Suppressing the warrant requirement, the Court shrinks to petite size our holding in *Georgia* v. *Randolph*, 547 U. S. 103 (2006), that "a physically present inhabitant's express refusal of consent to a police search [of his home] is dispositive as to him, regardless of the consent of a fellow occupant," *id.*, at 122–123.

I

This case calls for a straightforward application of *Randolph*. The police officers in *Randolph* were confronted with a scenario closely resembling the situation presented here. Once the police arrived at Janet and Scott Randolph's shared residence, Scott Randolph "unequivocally refused" an officer's request for permission to search their home. *Id.*, at 107. The officer then asked Janet Randolph for her consent to the search, which she "readily gave." *Ibid.* The sequence here was similar. After Walter Fernandez, while physically present at his home, rebuffed the officers' request to come in, the police removed him from the premises and then arrested him, albeit with cause to believe he had assaulted his cohabitant, Roxanne Rojas. At the time of the arrest, Rojas said nothing to contradict Fernandez' refusal. About an hour later, however, and with no attempt to obtain a search warrant, the police returned to the apartment and prevailed upon Rojas to sign a consent form authorizing search of the premises. See *infra*, at 317, n. 5.

The circumstances triggering "the Fourth Amendment's traditional hostility to police entry into a home without a warrant," 547 U. S., at 126 (BREYER, J., concurring), are at least as salient here as they were in *Randolph*. In both cases, "[t]he search at issue was a search solely for evidence"; "[t]he objecting party," while on the premises, "made his objection [to police entry] known clearly and directly to the officers seeking to enter the [residence]"; and "the officers might easily have secured the premises and sought a warrant permitting them to enter." *Id.*, at 125–126. Here, moreover, with the objector in custody, there was scant danger to persons on the premises, or risk that evidence might be destroyed or concealed, pending request for, and receipt of, a warrant. See *id.*, at 126.

Despite these marked similarities, the Court removes this case from *Randolph*'s ambit. The Court does so principally

by seizing on the fact that Fernandez, unlike Scott Randolph, was no longer present and objecting when the police obtained the co-occupant's consent. *Ante*, at 301–302. But Fernandez *was* present when he stated his objection to the would-be searchers in no uncertain terms. See App. 6 ("You don't have any right to come in here. I know my rights." (internal quotation marks omitted)). The officers could scarcely have forgotten, one hour later, that Fernandez refused consent while physically present. That express, on-premises objection should have been "dispositive as to him." *Randolph*, 547 U. S., at 122.[1]

The Court tells us that the "widely shared social expectations" and "customary social usage" undergirding *Randolph*'s holding apply only when the objector remains physically present. *Ante*, at 303–304 (internal quotation marks omitted). *Randolph*'s discussion of social expectations, however, does not hinge on the objector's physical presence *vel non* at the time of the search. "[W]hen people living together disagree over the use of their common quarters," *Randolph* observes, "a resolution must come through voluntary accommodation, not by appeals to authority." 547 U. S., at 113–114. See also *id.*, at 114 ("[T]here is no common understanding that one co-tenant generally has a right or authority to prevail over the express wishes of another, whether the issue is the color of the curtains or invitations

[1] The Court is correct that this case does not involve a situation, alluded to in *Randolph*, where "the police have removed the potentially objecting tenant from the entrance for the sake of avoiding a possible objection." *Georgia* v. *Randolph*, 547 U. S. 103, 121 (2006). Here, as in *Randolph*, no one disputes that the police had probable cause to place the objecting tenant under arrest. But had the objector's arrest been illegal, *Randolph* suggested, the remaining occupant's consent to the search would not suffice. The suggestion in *Randolph*, as the Court recognizes, see *ante*, at 302–303, is at odds with today's decision. For "[i]f the police cannot prevent a co-tenant from objecting to a search through arrest, surely they cannot arrest a co-tenant and then seek to ignore an objection he has already made." *United States* v. *Murphy*, 516 F. 3d 1117, 1124–1125 (CA9 2008).

to outsiders."); *id.*, at 115 ("[T]he cooperative occupant's invitation adds nothing to the government's side to counter the force of an objecting individual's claim to security against the government's intrusion into his dwelling place."). *Randolph* thus trained on whether a joint occupant had conveyed an objection to a visitor's entry, and did not suggest that the objection could be ignored if the police reappeared post the objector's arrest.

A visitor might be less reluctant to enter over a joint occupant's objection, the Court speculates, if that visitor knows the objector will not be there. See *ante*, at 303–304. "Only in a Hobbesian world," however, "would one person's social obligations to another be limited to what the other[, because of his presence,] is . . . able to enforce." *United States* v. *Henderson*, 536 F. 3d 776, 787 (CA7 2008) (Rovner, J., dissenting). Such conjectures about social behavior, at any rate, shed little light on the constitutionality of this warrantless home search, given the marked distinctions between private interactions and police investigations. Police, after all, have power no private person enjoys. They can, as this case illustrates, put a tenant in handcuffs and remove him from the premises.

Moreover, as the Court comprehended just last Term, "the background social norms that invite a visitor to the front door do not invite him there to conduct a search." *Florida* v. *Jardines*, 569 U. S. 1, 9 (2013). Similarly here, even if shared tenancy were understood to entail the prospect of visits by unwanted social callers while the objecting resident was gone, that unwelcome visitor's license would hardly include free rein to rummage through the dwelling in search of evidence and contraband.[2]

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[2] Remarkably, the Court thinks my disagreement with its account of the applicable social norms distances me from *Randolph*'s understanding of social expectations. See *ante*, at 304, n. 5. Quite the opposite. *Randolph* considered whether "customary social understanding accords the consenting tenant authority powerful enough to prevail over the co-

Next, the Court cautions, applying *Randolph* to these facts would pose "a plethora of practical problems." *Ante*, at 304. For instance, the Court asks, must a cotenant's objection, once registered, be respected indefinitely? Yet it blinks reality to suppose that Fernandez, by withholding consent, could stop police in their tracks eternally. Cf. *ante*, at 304–305 (imagining an objector behind bars serving his sentence, still refusing permission to search his residence). To mount the prosecution eventuating in a conviction, of course, the State would first need to obtain incriminating evidence, and could get it easily simply by applying for a warrant. Warrant in police hands, the Court's practical problems disappear.

Indeed, as the Court acknowledges, see *ante*, at 306, reading *Randolph* to require continuous physical presence poses administrative difficulties of its own. Does an occupant's refusal to consent lose force as soon as she absents herself from the doorstep, even if only for a moment? Are the police free to enter the instant after the objector leaves the door to retire for a nap, answer the phone, use the bathroom, or speak to another officer outside? See Brief for Petitioner 28. Hypothesized practical considerations, in short, provide no cause for today's drastic reduction of *Randolph*'s holding and attendant disregard for the warrant requirement.

II

In its zeal to diminish *Randolph*, today's decision overlooks the warrant requirement's venerable role as the

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tenant's objection"; social practice in such circumstances, the Court held, provided no cause to depart from the "'centuries-old principle of respect for privacy of the home.'" 547 U. S., at 115, 121 (quoting *Wilson* v. *Layne*, 526 U. S. 603, 610 (1999)). See also 547 U. S., at 115 ("Disputed permission is . . . no match for this central value of the Fourth Amendment . . . ."). I would so hold here. Today's decision, by contrast, provides police with ready means to nullify a cotenant's objection, and therefore "fails to come to grips with the reasoning of [*Randolph*]." *Ante*, at 304, n. 5.

"bulwark of Fourth Amendment protection." *Franks* v. *Delaware*, 438 U. S. 154, 164 (1978). Reducing *Randolph* to a "narrow exception," the Court declares the main rule to be that "consent by one resident of jointly occupied premises is generally sufficient to justify a warrantless search." *Ante*, at 300. That declaration has it backwards, for consent searches themselves are a "'jealously and carefully drawn' exception" to "the Fourth Amendment rule ordinarily prohibiting the warrantless entry of a person's house as unreasonable *per se*." *Randolph*, 547 U. S., at 109 (quoting *Jones* v. *United States*, 357 U. S. 493, 499 (1958)). See also *Jardines*, 569 U. S., at 6 ("[W]hen it comes to the Fourth Amendment, the home is first among equals. At the Amendment's 'very core' stands 'the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.'"); *Payton* v. *New York*, 445 U. S. 573, 585 (1980) ("[T]he physical entry of the home is the chief evil against which . . . the Fourth Amendment is directed." (internal quotation marks omitted)).[3]

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[3] I agree with the Court that when a sole owner or occupant consents to a search, the police can enter without obtaining a warrant. See *ante*, at 298–299. Where multiple persons occupy the premises, it is true, this Court has upheld warrantless home searches based on one tenant's consent; those cases, however, did not involve, as this case does, an occupant who told the police they could not enter. See *United States* v. *Matlock*, 415 U. S. 164 (1974) (police relied on cotenant's consent to search when other tenant had already been detained in a nearby squad car); *Illinois* v. *Rodriguez*, 497 U. S. 177 (1990) (same, when the other tenant was asleep in the bedroom). The Court's rationale for allowing a search to proceed in those instances—that co-occupants "assum[e] the risk that one of their number might permit the common area to be searched," *Matlock*, 415 U. S., at 171, n. 7—does not apply where, as here, an occupant on the premises explicitly tells the police they cannot search his home *sans* warrant. See *United States* v. *Henderson*, 536 F. 3d 776, 788 (CA7 2008) (Rovner, J., dissenting) (in such circumstances, the objector "has not assumed the risk that his cotenant may subsequently admit the visitor, because all choice has been taken from him in his involuntary removal from the premises").

In this case, the police could readily have obtained a warrant to search the shared residence.[4] The Court does not dispute this, but instead disparages the warrant requirement as inconvenient, burdensome, entailing delay "[e]ven with modern technological advances." *Ante*, at 306. Shut from the Court's sight is the ease and speed with which search warrants nowadays can be obtained. See *Missouri* v. *McNeely*, 569 U. S. 141, 154 (2013) (observing that technology now "allow[s] for the more expeditious processing of warrant applications," and citing state statutes permitting warrants to be obtained "remotely through various means, including telephonic or radio communication, electronic communication . . . , and video conferencing"). See also Brief for National Association of Criminal Defense Lawyers as *Amicus Curiae* 29 (describing California's procedures for electronic warrant applications). With these developments in view, dilution of the warrant requirement should be vigilantly resisted.

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[4] The Court dismisses as "beside the point" the undeniable fact that the police easily could have obtained a warrant. *Ante*, at 299, n. 4. There may be circumstances, the Court observes, in which the police, faced with a cotenant's objection, will lack probable cause to obtain a warrant. That same argument was considered and rejected by the Court in *Randolph*, which recognized that "alternatives to disputed consent will not always open the door to search for evidence that the police suspect is inside." 547 U. S., at 120. Moreover, it is unlikely that police, possessing an objective basis to arrest an objecting tenant, will nevertheless lack probable cause to obtain a search warrant. Probable cause to arrest, I recognize, calls for a showing discrete from the showing needed to establish probable cause to search a home. But "where, as here, a suspect is arrested at or near his residence, it will often 'be permissible to infer that the instrumentalities and fruits of th[e] crime are presently in that person's residence.'" Brief for National Association of Criminal Defense Lawyers as *Amicus Curiae* 25 (quoting 2 W. LaFave, Search and Seizure § 3.1(b) (5th ed. 2011)). And as the Court observed in *Randolph*, if a warrant may be impeded by a tenant's refusal to consent, "[a] co-tenant acting on [her] own initiative may be able to deliver evidence to the police, and . . . tell the police what [s]he knows, for use before a magistrate in getting a warrant." 547 U. S., at 116 (citation omitted).

Although the police have probable cause and could obtain a warrant with dispatch, if they can gain the consent of someone other than the suspect, why should the law insist on the formality of a warrant? Because the Framers saw the neutral magistrate as an essential part of the criminal process shielding all of us, good or bad, saint or sinner, from unchecked police activity. See, *e. g.*, *Johnson*, 333 U. S., at 13–14 ("The point of the Fourth Amendment . . . is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime."). "The investigation of crime," of course, "would always be simplified if warrants were unnecessary." *Mincey*, 437 U. S., at 393. "But the Fourth Amendment," the Court has long recognized, "reflects the view of those who wrote the Bill of Rights that the privacy of a person's home and property may not be totally sacrificed in the name of maximum simplicity in enforcement of the criminal law." *Ibid.* See also *Randolph*, 547 U. S., at 115, n. 5 ("A generalized interest in expedient law enforcement cannot, without more, justify a warrantless search.").

A final word is in order about the Court's reference to Rojas' autonomy, which, in its view, is best served by allowing her consent to trump an abusive cohabitant's objection. See *ante*, at 307 ("Denying someone in Rojas' position the right to allow the police to enter *her* home would also show disrespect for her independence.").[5] Rojas' situation is not

[5] Although the validity of Rojas' consent is not before us, the record offers cause to doubt that her agreement to the search was, in fact, an unpressured exercise of self-determination. At the evidentiary hearing on Fernandez' motion to suppress, Rojas testified that the police, upon returning to the residence about an hour after Fernandez' arrest, began questioning her four-year-old son without her permission. App. 81, 93. Rojas asked to remain present during that questioning, but the police offi-

distinguishable from Janet Randolph's in this regard. If a person's health and safety are threatened by a domestic abuser, exigent circumstances would justify immediate removal of the abuser from the premises, as happened here. Cf. *Randolph*, 547 U. S., at 118 ("[T]his case has no bearing on the capacity of the police to protect domestic victims. . . . No question has been raised, or reasonably could be, about the authority of the police to enter a dwelling to protect a resident from domestic violence . . . ."). See also *Brigham City* v. *Stuart*, 547 U. S. 398, 403 (2006) ("[L]aw enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury."). Domestic abuse is indeed "a serious problem in the United States," *Randolph*, 547 U. S., at 117 (citing statistics); appropriate policy responses to this scourge may include fostering effective counseling, providing public information about, and ready access to, protective orders, and enforcing such orders diligently.[6] As the Court

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cer told her that their investigation was "going to determine whether or not we take your kids from you right now or not." *Id.*, at 93. See also *ibid.* ("I felt like [the police] were going to take my kids away from me."). Rojas thus maintained that she felt "pressured" into giving consent. *Id.*, at 93–94. See also *id.*, at 93 ("I felt like I had no rights."). After about 20 or 30 minutes, Rojas acceded to the officer's request that she sign a consent form. Rojas testified that she "didn't want to sign [the form]," but did so because she "just wanted it to just end." *Id.*, at 100.

The trial court found Rojas' testimony at the suppression hearing "believable at points and unbelievable at other points," and concluded that the police conduct did not amount to "duress or coercion." *Id.*, at 152. The trial court agreed, however, that Rojas "may have felt pressured." *Ibid.*

[6] See generally National Council of Juvenile and Family Court Judges, Civil Protection Orders: A Guide for Improving Practice (2010), online at http://www.ncjfcj.org/sites/default/files/cpo_guide.pdf (all Internet materials as visited Feb. 21, 2014, and available in Clerk of Court's case file); Epidemiology and Prevention for Injury Control Branch, California Statewide Policy Recommendations for the Prevention of Violence Against Women (2006), online at http://www.cdph.ca.gov/programs/Documents/VAWSPP-EPIC.pdf.

understood in *Randolph*, however, the specter of domestic abuse hardly necessitates the diminution of the Fourth Amendment rights at stake here.

* * *

For the reasons stated, I would honor the Fourth Amendment's warrant requirement and hold that Fernandez' objection to the search did not become null upon his arrest and removal from the scene. "There is every reason to conclude that securing a warrant was entirely feasible in this case, and no reason to contract the Fourth Amendment's dominion." *Kentucky* v. *King*, 563 U. S. 452, 477 (2011) (GINSBURG, J., dissenting). I would therefore reverse the judgment of the California Court of Appeal.

Syllabus

KALEY ET VIR *v.* UNITED STATES

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

No. 12–464. Argued October 16, 2013—Decided February 25, 2014

Title 21 U. S. C. § 853(e)(1) empowers courts to enter pre-trial restraining orders to "preserve the availability of [forfeitable] property" while criminal proceedings are pending. Such pre-trial asset restraints are constitutionally permissible whenever probable cause exists to think that a defendant has committed an offense permitting forfeiture and that the assets in dispute are traceable or otherwise sufficiently related to the crime charged. *United States* v. *Monsanto*, 491 U. S. 600.

After a grand jury indicted petitioners, Kerri and Brian Kaley, for reselling stolen medical devices and laundering the proceeds, the Government obtained a § 853(e)(1) restraining order against their assets. The Kaleys moved to vacate the order, intending to use a portion of the disputed assets for their legal fees. The District Court allowed them to challenge the assets' traceability to the offenses in question but not the facts supporting the underlying indictment. The Eleventh Circuit affirmed.

Held: When challenging the legality of a § 853(e)(1) pre-trial asset seizure, a criminal defendant who has been indicted is not constitutionally entitled to contest a grand jury's determination of probable cause to believe the defendant committed the crimes charged. Pp. 326–341.

(a) In *Monsanto*, this Court held that the Government may seize assets before trial that a defendant intends to use to pay an attorney, so long as probable cause exists "to believe that the property will ultimately be proved forfeitable." 491 U. S., at 615. The question whether indicted defendants like the Kaleys are constitutionally entitled to a judicial re-determination of the grand jury's probable cause conclusion in a hearing to lift an asset restraint has a ready answer in the fundamental and historic commitment of the criminal justice system to entrust probable cause findings to a grand jury. A probable cause finding sufficient to initiate a prosecution for a serious crime is "conclusiv[e]," *Gerstein* v. *Pugh*, 420 U. S. 103, 117, n. 19, and, as a general matter, "a challenge to the reliability or competence of the evidence" supporting that finding "will not be heard," *United States* v. *Williams*, 504 U. S. 36, 54. A grand jury's probable cause finding may, on its own, effect a

pre-trial restraint on a person's liberty. *Gerstein*, 420 U. S., at 117, n. 19. The same result follows when it works to restrain a defendant's property.

The Kaleys' alternative rule would have strange and destructive consequences. Allowing a judge to decide anew what the grand jury has already determined could result in two inconsistent findings governing different aspects of one criminal proceeding, with the same judge who found probable cause lacking presiding over a trial premised on its existence. That legal dissonance could not but undermine the criminal justice system's integrity, especially the grand jury's constitutional role. Pp. 326–333.

(b) The balancing test of *Mathews* v. *Eldridge*, 424 U. S. 319—which requires a court to weigh (1) the burdens that a requested procedure would impose on the government against (2) the private interest at stake, as viewed alongside (3) "the risk of an erroneous deprivation" of that interest without the procedure and "the probable value, if any, of [the] additional . . . procedural safeguar[d]," *id.*, at 335—if applicable here, tips against the Kaleys. Because the Government's interest in freezing potentially forfeitable assets without an adversarial hearing about the probable cause underlying criminal charges and the Kaleys' interest in retaining counsel of their own choosing are both substantial, the test's third prong is critical. It boils down to the "probable value, if any," of a judicial hearing in uncovering mistaken grand jury probable cause findings. But when the legal standard is merely probable cause and the grand jury has already made that finding, a full-dress hearing will provide little benefit. See *Florida* v. *Harris*, 568 U. S. 237, 249. A finding of probable cause to think that a person committed a crime "can be [made] reliably without an adversary hearing," *Gerstein*, 420 U. S., at 120, and the value of requiring additional "formalities and safeguards" would "[i]n most cases . . . be too slight," *id.*, at 121–122. The experience of several Circuits corroborates this view. Neither the Kaleys nor their *amici* point to a single case in two decades where courts, holding hearings of the kind they seek, have found the absence of probable cause to believe that an indicted defendant committed the crime charged. Pp. 333–340.

677 F. 3d 1316, affirmed and remanded.

KAGAN, J., delivered the opinion of the Court, in which SCALIA, KENNEDY, THOMAS, GINSBURG, and ALITO, JJ., joined. ROBERTS, C. J., filed a dissenting opinion, in which BREYER and SOTOMAYOR, JJ., joined, *post*, p. 341.

Howard Srebnick argued the cause for petitioners. With him on the briefs was *G. Richard Strafer*.

Deputy Solicitor General Dreeben argued the cause for the United States. With him on the brief were *Solicitor General Verrilli, Acting Assistant Attorney General Raman, Elaine J. Goldenberg,* and *Sonja M. Ralston.**

JUSTICE KAGAN delivered the opinion of the Court.

A federal statute, 21 U. S. C. § 853(e), authorizes a court to freeze an indicted defendant's assets prior to trial if they would be subject to forfeiture upon conviction. In *United States* v. *Monsanto*, 491 U. S. 600, 615 (1989), we approved the constitutionality of such an order so long as it is "based on a finding of probable cause to believe that the property will ultimately be proved forfeitable." And we held that standard to apply even when a defendant seeks to use the disputed property to pay for a lawyer.

In this case, two indicted defendants wishing to hire an attorney challenged a pre-trial restraint on their property. The trial court convened a hearing to consider the seizure's legality under *Monsanto*. The question presented is whether criminal defendants are constitutionally entitled at such a hearing to contest a grand jury's prior determination of probable cause to believe they committed the crimes charged. We hold that they have no right to relitigate that finding.

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*Briefs of *amici curiae* urging reversal were filed for the American Bar Association by *Laurel G. Bellows, Jerrold J. Ganzfried, Terrance G. Reed,* and *John F. Stanton*; for California Attorneys for Criminal Justice by *John B. Owens, Daniel B. Levin, Michael J. Mongan,* and *John T. Philipsborn*; for the Cato Institute by *Ilya Shapiro*; for the Florida Association of Criminal Defense Lawyers by *Courtney J. Linn, Robert M. Loeb, Michael Ufferman, Karen M. Gottlieb,* and *Sonya Rudenstine*; for the Gun Owners Foundation et al. by *William J. Olson, Jeremiah L. Morgan, Herbert W. Titus,* and *John S. Miles*; and for the National Association of Criminal Defense Lawyers by *Ricardo J. Bascuas* and *Jonathan Hacker.*

Briefs of *amici curiae* were filed for the Institute for Justice by *William H. Mellor, Scott G. Bullock,* and *Darpana M. Sheth*; and for the New York Council of Defense Lawyers by *Jonathan P. Bach.*

I

A

Criminal forfeitures are imposed upon conviction to confiscate assets used in or gained from certain serious crimes. See 21 U. S. C. § 853(a). Forfeitures help to ensure that crime does not pay: They at once punish wrongdoing, deter future illegality, and "lessen the economic power" of criminal enterprises. *Caplin & Drysdale, Chartered* v. *United States*, 491 U. S. 617, 630 (1989); see *id.*, at 634 ("Forfeiture provisions are powerful weapons in the war on crime"). The Government also uses forfeited property to recompense victims of crime, improve conditions in crime-damaged communities, and support law enforcement activities like police training. See *id.*, at 629–630.[1] Accordingly, "there is a strong governmental interest in obtaining full recovery of all forfeitable assets." *Id.*, at 631.

In line with that interest, § 853(e)(1) empowers courts to enter pre-trial restraining orders or injunctions to "preserve the availability of [forfeitable] property" while criminal proceedings are pending. Such an order, issued "[u]pon application of the United States," prevents a defendant from spending or transferring specified property, including to pay an attorney for legal services. *Ibid.* In *Monsanto*, our principal case involving this procedure, we held a pre-trial asset restraint constitutionally permissible whenever there is probable cause to believe that the property is forfeitable. See 491 U. S., at 615. That determination has two parts, reflecting the requirements for forfeiture under federal law: There must be probable cause to think (1) that the defendant has committed an offense permitting forfeiture, and (2) that

[1] Between January 2012 and April 2013, for example, the Department of Justice returned over $1.5 billion in forfeited assets to more than 400,000 crime victims. See Dept. of Justice, Justice Department Returned $1.5 Billion to Victims of Crime Since January 2012 (Apr. 26, 2013), online at http://www.justice.gov/opa/pr/2013/April/13-crm-480.html (as visited Feb. 21, 2014, and available in the Clerk of Court's case file).

the property at issue has the requisite connection to that crime. See § 853(a). The *Monsanto* Court, however, declined to consider "whether the Due Process Clause requires a hearing" to establish either or both of those aspects of forfeitability. *Id.*, at 615, n. 10.[2]

Since *Monsanto*, the lower courts have generally provided a hearing to any indicted defendant seeking to lift an asset restraint to pay for a lawyer. In that hearing, they have uniformly allowed the defendant to litigate the second issue stated above: whether probable cause exists to believe that the assets in dispute are traceable or otherwise sufficiently related to the crime charged in the indictment.[3] But the courts have divided over extending the hearing to the first issue. Some have considered, while others have barred, a defendant's attempt to challenge the probable cause underlying a criminal charge.[4] This case raises the question whether an indicted defendant has a constitutional right to contest the grand jury's prior determination of that matter.

B

The grand jury's indictment in this case charges a scheme to steal prescription medical devices and resell them for

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[2] The forfeiture statute itself requires a hearing when the Government seeks to restrain the assets of someone who has not yet been indicted. See 21 U. S. C. § 853(e)(1)(B). That statutory provision is not at issue in this case, which involves a pair of indicted defendants.

[3] At oral argument, the Government agreed that a defendant has a constitutional right to a hearing on that question. See Tr. of Oral Arg. 45. We do not opine on the matter here.

[4] Compare *United States* v. *E-Gold, Ltd.*, 521 F. 3d 411 (CADC 2008) (holding that a defendant is entitled to raise such a challenge); *United States* v. *Dejanu*, 37 Fed. Appx. 870, 873 (CA9 2002) (same); *United States* v. *Michelle's Lounge*, 39 F. 3d 684, 700 (CA7 1994) (same); *United States* v. *Monsanto*, 924 F. 2d 1186 (CA2 1991) (en banc) (same), with *United States* v. *Jamieson*, 427 F. 3d 394, 406–407 (CA6 2005) (prohibiting a defendant from raising such a challenge); *United States* v. *Farmer*, 274 F. 3d 800, 803–806 (CA4 2001) (same); *United States* v. *Jones*, 160 F. 3d 641, 648–649 (CA10 1998) (same).

profit. The indictment accused petitioner Kerri Kaley, a sales representative for a subsidiary of Johnson & Johnson, and petitioner Brian Kaley, her husband, with transporting stolen medical devices across state lines and laundering the proceeds of that activity.[5] The Kaleys have contested those allegations throughout this litigation, arguing that the medical devices at issue were unwanted, excess hospital inventory, which they could lawfully take and market to others.

Immediately after obtaining the indictment, the Government sought a restraining order under § 853(e)(1) to prevent the Kaleys from transferring any assets traceable to or involved in the alleged offenses. Included among those assets is a $500,000 certificate of deposit that the Kaleys intended to use for legal fees. The District Court entered the requested order. Later, in response to the Kaleys' motion to vacate the asset restraint, the court denied a request for an evidentiary hearing and confirmed the order, except as to $63,000 that it found (based on the parties' written submissions) was not connected to the alleged offenses.

On interlocutory appeal, the Eleventh Circuit reversed and remanded for further consideration of whether some kind of evidentiary hearing was warranted. See 579 F. 3d 1246 (2009). The District Court then concluded that it should hold a hearing, but only as to "whether the restrained assets are traceable to or involved in the alleged criminal conduct." App. to Pet. for Cert. 43, n. 5. The Kaleys informed the court that they no longer disputed that issue; they wished to show only that the "case against them is 'baseless.'" *Id.*, at 39; see App. 107 ("We are not contesting

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[5] An earlier version of the indictment did not include the money laundering charge. In its superseding indictment, the Government also accused Jennifer Gruenstrass, another sales representative, of transporting stolen property and money laundering. Her case went to trial, and she was acquitted. Several other sales representatives participating in the Kaleys' activity entered guilty pleas (each to a charge of shipping stolen goods) during the Government's investigation.

that the assets restrained were . . . traceable to the conduct. Our quarrel is whether that conduct constitutes a crime"). Accordingly, the District Court affirmed the restraining order, and the Kaleys took another appeal. The Eleventh Circuit this time affirmed, holding that the Kaleys were not entitled at a hearing on the asset freeze "to challenge the factual foundation supporting the grand jury's probable cause determination[ ]"—that is, "the very validity of the underlying indictment." 677 F. 3d 1316, 1317 (2012).

We granted certiorari in light of the Circuit split on the question presented, 568 U. S. 1227 (2013), and we now affirm the Eleventh Circuit.

II

This Court has twice considered claims, similar to the Kaleys', that the Fifth Amendment's right to due process and the Sixth Amendment's right to counsel constrain the way the federal forfeiture statute applies to assets needed to retain an attorney. See *Caplin & Drysdale*, 491 U. S. 617; *Monsanto*, 491 U. S. 600. We begin with those rulings not as mere background, but as something much more. On the single day the Court decided both those cases, it cast the die on this one too.

In *Caplin & Drysdale*, we considered whether the Fifth and Sixth Amendments exempt from forfeiture money that a convicted defendant has agreed to pay his attorney. See 491 U. S., at 623–635. We conceded a factual premise of the constitutional claim made in the case: Sometimes "a defendant will be unable to retain the attorney of his choice" if he cannot use forfeitable assets. *Id.*, at 625. Still, we held, the defendant's claim was "untenable." *Id.*, at 626. "A defendant has no Sixth Amendment right to spend another person's money" for legal fees—even if that is the only way to hire a preferred lawyer. *Ibid.* Consider, we submitted, the example of a "robbery suspect" who wishes to "use funds he has stolen from a bank to retain an attorney to defend him if he is apprehended." *Ibid.* That money is "not rightfully

his." *Ibid.* Accordingly, we concluded, the Government does not violate the Constitution if, pursuant to the forfeiture statute, "it seizes the robbery proceeds and refuses to permit the defendant to use them" to pay for his lawyer. *Ibid.*

And then, we confirmed in *Monsanto* what our "robbery suspect" hypothetical indicated: Even prior to conviction (or trial)—when the presumption of innocence still applies—the Government could constitutionally use § 853(e) to freeze assets of an indicted defendant "based on a finding of probable cause to believe that the property will ultimately be proved forfeitable." 491 U. S., at 615. In *Monsanto*, too, the defendant wanted to use the property at issue to pay a lawyer, and maintained that the Fifth and Sixth Amendments entitled him to do so. We disagreed. We first noted that the Government may sometimes "restrain *persons* where there is a finding of probable cause to believe that the accused has committed a serious offense." *Id.*, at 615–616. Given that power, we could find "no constitutional infirmity in § 853(e)'s authorization of a similar restraint on [the defendant's] property" in order to protect "the community's interest" in recovering "ill-gotten gains." *Id.*, at 616. Nor did the defendant's interest in retaining a lawyer with the disputed assets change the equation. Relying on *Caplin & Drysdale*, we reasoned: "[I]f the Government may, post-trial, forbid the use of forfeited assets to pay an attorney, then surely no constitutional violation occurs when, after probable cause is adequately established, the Government obtains an order barring a defendant from frustrating that end by dissipating his assets prior to trial." 491 U. S., at 616. So again: With probable cause, a freeze is valid.

The Kaleys little dispute that proposition; their argument is instead about who should have the last word as to probable cause. A grand jury has already found probable cause to think that the Kaleys committed the offenses charged; that is why an indictment issued. No one doubts that those crimes

are serious enough to trigger forfeiture. Similarly, no one contests that the assets in question derive from, or were used in committing, the offenses. See *supra*, at 325–326. The only question is whether the Kaleys are constitutionally entitled to a judicial re-determination of the conclusion the grand jury already reached: that probable cause supports this criminal prosecution (or alternatively put, that the prosecution is not "baseless," as the Kaleys believe, *supra*, at 325). And that question, we think, has a ready answer, because a fundamental and historic commitment of our criminal justice system is to entrust those probable cause findings to grand juries.

This Court has often recognized the grand jury's singular role in finding the probable cause necessary to initiate a prosecution for a serious crime. See, *e. g.*, *Costello* v. *United States*, 350 U. S. 359, 362 (1956). "[A]n indictment 'fair upon its face,' and returned by a 'properly constituted grand jury,'" we have explained, "conclusively determines the existence of probable cause" to believe the defendant perpetrated the offense alleged. *Gerstein* v. *Pugh*, 420 U. S. 103, 117, n. 19 (1975) (quoting *Ex parte United States*, 287 U. S. 241, 250 (1932)). And "conclusively" has meant, case in and case out, just that. We have found no "authority for looking into and revising the judgment of the grand jury upon the evidence, for the purpose of determining whether or not the finding was founded upon sufficient proof." *Costello*, 350 U. S., at 362–363 (quoting *United States* v. *Reed*, 27 F. Cas. 727, 738 (No. 16,134) (CC NDNY 1852) (Nelson, J.)). To the contrary, "the whole history of the grand jury institution" demonstrates that "a challenge to the reliability or competence of the evidence" supporting a grand jury's finding of probable cause "will not be heard." *United States* v. *Williams*, 504 U. S. 36, 54 (1992) (quoting *Costello*, 350 U. S., at 364, and *Bank of Nova Scotia* v. *United States*, 487 U. S. 250, 261 (1988)). The grand jury gets to say—without any review, oversight, or second-guessing—whether probable cause exists to think that a person committed a crime.

And that inviolable grand jury finding, we have decided, may do more than commence a criminal proceeding (with all the economic, reputational, and personal harm that entails); the determination may also serve the purpose of immediately depriving the accused of her freedom. If the person charged is not yet in custody, an indictment triggers "issuance of an arrest warrant without further inquiry" into the case's strength. *Gerstein*, 420 U. S., at 117, n. 19; see *Kalina* v. *Fletcher*, 522 U. S. 118, 129 (1997). Alternatively, if the person was arrested without a warrant, an indictment eliminates her Fourth Amendment right to a prompt judicial assessment of probable cause to support any detention. See *Gerstein*, 420 U. S., at 114, 117, n. 19. In either situation, this Court—relying on the grand jury's "historical role of protecting individuals from unjust persecution"—has "let [that body's] judgment substitute for that of a neutral and detached magistrate." *Ibid.* The grand jury, all on its own, may effect a pre-trial restraint on a person's liberty by finding probable cause to support a criminal charge.[6]

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[6] The grand jury's unreviewed finding similarly may play a significant role in determining a defendant's eligibility for release before trial under the Bail Reform Act of 1984, 18 U. S. C. § 3141 *et seq.* That statute creates a rebuttable presumption that a defendant is ineligible for bail if "there is probable cause to believe" she committed certain serious crimes. §§ 3142(e)(2)–(3), (f). The Courts of Appeals have uniformly held that presumption to operate whenever an indictment charges those offenses. Relying on our instruction that an indictment returned by a proper grand jury "conclusively determines the existence of probable cause," the courts have denied defendants' calls for any judicial reconsideration of that issue. *United States* v. *Contreras*, 776 F. 2d 51, 54 (CA2 1985) (quoting *Gerstein* v. *Pugh*, 420 U. S. 103, 117, n. 19 (1975)); see, *e. g.*, *United States* v. *Suppa*, 799 F. 2d 115, 117–119 (CA3 1986); *United States* v. *Vargas*, 804 F. 2d 157, 162–163 (CA1 1986) (*per curiam*); *United States* v. *Hurtado*, 779 F. 2d 1467, 1477–1479 (CA11 1985).

The dissent, while conceding this point, notes that courts may consider the "weight of the evidence" in deciding whether a defendant has rebutted the presumption. See *post*, at 349–350, and n. 3 (opinion of ROBERTS, C. J.). And so they may, along with a host of other factors relating to the defend-

The same result follows when, as here, an infringement on the defendant's property depends on a showing of probable cause that she committed a crime. If judicial review of the grand jury's probable cause determination is not warranted (as we have so often held) to put a defendant on trial or place her in custody, then neither is it needed to freeze her property. The grand jury that is good enough—reliable enough, protective enough—to inflict those other grave consequences through its probable cause findings must be adequate to impose this one too. Indeed, *Monsanto* already noted the absence of any reason to hold property seizures to different rules: As described earlier, the Court partly based its adoption of the probable cause standard on the incongruity of subjecting an asset freeze to any stricter requirements than apply to an arrest or ensuing detention. See *supra*, at 327; 491 U. S., at 615 ("[I]t would be odd to conclude that the Government may not restrain property" on the showing often sufficient to "restrain *persons*"). By similar token, the probable cause standard, once selected, should work no differently for the single purpose of freezing assets than for all others.[7] So the longstanding, unvarying rule of criminal

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ant's dangerousness or risk of flight. See §3142(g). But that is because the Bail Reform Act so allows—not because (as argued here) the Constitution compels the inquiry. And even that provision of the statute cuts *against* the dissent's position, because it enables courts to consider only an evidentiary issue different from the probable cause determination. When it comes to whether probable cause supports a charge—*i. e.*, the issue here—courts making bail determinations are stuck, as all agree, with the grand jury's finding.

[7] Contrary to the dissent's characterization, see *post*, at 351, nothing in our reasoning depends on viewing one consequence of a probable cause determination (say, detention) as "greater" than another (say, the asset freeze here). (We suspect that would vary from case to case, with some defendants seeing the loss of liberty as the more significant deprivation and others the loss of a chosen lawyer.) We simply see no reason to treat a grand jury's probable cause determination as conclusive for all other purposes (including, in some circumstances, locking up the defendant), but not for the one at issue here.

procedure we have just described applies here as well: The grand jury's determination is conclusive.

And indeed, the alternative rule the Kaleys seek would have strange and destructive consequences. The Kaleys here demand a do-over, except with a different referee. They wish a judge to decide anew the exact question the grand jury has already answered—whether there is probable cause to think the Kaleys committed the crimes charged. But suppose the judge performed that task and came to the opposite conclusion. Two inconsistent findings would then govern different aspects of one criminal proceeding: Probable cause would exist to bring the Kaleys to trial (and, if otherwise appropriate, hold them in prison), but not to restrain their property. And assuming the prosecutor continued to press the charges,[8] the same judge who found probable cause lacking would preside over a trial premised on its presence. That legal dissonance, if sustainable at all, could not but undermine the criminal justice system's integrity—and especially the grand jury's integral, constitutionally prescribed role. For in this new world, every prosecution involving a pre-trial asset freeze would potentially pit the judge against the grand jury as to the case's foundational issue.[9]

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[8] A prosecutor, of course, might drop the case because of the court's ruling, especially if he thought that decision would bring into play an ethical standard barring any charge "that the prosecutor knows is not supported by probable cause." ABA Model Rule of Professional Conduct 3.8(a) (2013). But then the court would have effectively done what we have long held it cannot: overrule the grand jury on whether to bring a defendant to trial. See *supra*, at 328–329.

[9] The dissent argues that the same is true when a judge hears evidence on whether frozen assets are traceable to a crime, because that allegation also appears in the indictment. See *post*, at 346–347; *supra*, at 324, and n. 3. But the tracing of assets is a technical matter far removed from the grand jury's core competence and traditional function—to determine whether there is probable cause to think the defendant committed a crime. And a judge's finding that assets are not traceable to the crime charged in no way casts doubt on the prosecution itself. So that determination does not

The Kaleys counter (as does the dissent, *post*, at 347–348) that apparently inconsistent findings are not really so, because the prosecutor could have presented scantier evidence to the judge than he previously offered the grand jury. Suppose, for example, that at the judicial hearing the prosecutor put on only "one witness instead of all five"; then, the Kaleys maintain, the judge's decision of no probable cause would mean only that "the Government did not satisfy its burden[ ] on that one day in time." Tr. of Oral Arg. 12, 18; see Reply Brief 11–12. But we do not think that hypothetical solves the problem. As an initial matter, it does not foreclose a different fact pattern: A judge could hear the exact same evidence as the grand jury, yet respond to it differently, thus rendering what even the Kaleys must concede is a contradictory finding. And when the Kaleys' hypothetical *is* true, just what does it show? Consider that the prosecutor in their example has left home some of the witnesses he took to the grand jury—presumably because, as we later discuss, he does not yet wish to reveal their identities or likely testimony. See *infra*, at 335–336. The judge's ruling of no probable cause therefore would not mean that the grand jury was wrong: As the Kaleys concede, the grand jury could have heard more than enough evidence to find probable cause that they committed the crimes charged. The Kaleys would win at the later hearing despite, not because of, the case's true merits. And we would then see still less reason for a judge to topple the grand jury's (better supported) finding of probable cause.[10]

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similarly undermine the grand jury or create internal contradictions within the criminal justice system.

[10] The dissent claims as well that the hearing the Kaleys seek "would not be mere relitigation" of the grand jury's decision because they could now "tell their side of the story." *Post*, at 347, 348. But the same could be said of an adversarial hearing on an indictment's validity, which everyone agrees is impermissible because it "look[s] into and revise[s]" the grand jury's judgment. See *post*, at 348 (quoting *Costello* v. *United States*, 350 U. S. 359, 362 (1956)). The lesson of our precedents, as described above, is

Our reasoning so far is straightforward. We held in *Monsanto* that the probable cause standard governs the pre-trial seizure of forfeitable assets, even when they are needed to hire a lawyer. And we have repeatedly affirmed a corollary of that standard: A defendant has no right to judicial review of a grand jury's determination of probable cause to think a defendant committed a crime. In combination, those settled propositions signal defeat for the Kaleys because, in contesting the seizure of their property, they seek only to relitigate such a grand jury finding.

III

The Kaleys would have us undertake a different analysis, which they contend would lead to a different conclusion. They urge us to apply the balancing test of *Mathews* v. *Eldridge*, 424 U. S. 319 (1976), to assess whether they have received a constitutionally sufficient opportunity to challenge the seizure of their assets. See Brief for Petitioners 32–64. Under that three-pronged test (reordered here for expositional purposes), a court must weigh (1) the burdens that a requested procedure would impose on the Government against (2) the private interest at stake, as viewed alongside (3) "the risk of an erroneous deprivation" of that interest without the procedure and "the probable value, if any, of [the] additional . . . procedural safeguard[ ]." *Mathews*, 424 U. S., at 335. Stressing the importance of their interest in retaining chosen counsel, the Kaleys argue that the *Mathews* balance tilts hard in their favor. It thus overrides—or so the Kaleys claim—all we have previously held about the finality of grand jury findings, entitling them to an evidentiary hearing before a judge to contest the probable cause underlying the indictment.

The Government battles with the Kaleys over whether *Mathews* has any application to this case. This Court de-

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that a grand jury's finding is "conclusive"—and thus precludes subsequent proceedings on the same matter—even though not arising from adversarial testing. See *supra*, at 328–329; see also *infra*, at 338–339.

vised the test, the Government notes, in an administrative setting—to decide whether a Social Security recipient was entitled to a hearing before her benefits were terminated. And although the Court has since employed the approach in other contexts, the Government reads *Medina* v. *California*, 505 U. S. 437 (1992), as foreclosing its use here. In that case, we held that "the *Mathews* balancing test does not provide the appropriate framework for assessing the validity of state procedural rules which . . . are part of the criminal process," reasoning that because the "Bill of Rights speaks in explicit terms to many aspects of criminal procedure," the Due Process Clause "has limited operation" in the field. *Id.*, at 443. That settles that, asserts the Government. See Brief for United States 18. But the Kaleys argue that *Medina* addressed a *State's* procedural rule and relied on federalism principles not implicated here. Further, they claim that *Medina* concerned a criminal proceeding proper, not a collateral action seizing property. See Reply Brief 1–5. As to that sort of action, the Kaleys contend, *Mathews* should govern.

We decline to address those arguments, or to define the respective reach of *Mathews* and *Medina*, because we need not do so. Even if *Mathews* applied here—even if, that is, its balancing inquiry were capable of trumping this Court's repeated admonitions that the grand jury's word is conclusive—the Kaleys still would not be entitled to the hearing they seek. That is because the *Mathews* test tips against them, and so only reinforces what we have already said. As we will explain, the problem for the Kaleys comes from *Mathews*' prescribed inquiry into the requested procedure's usefulness in correcting erroneous deprivations of their private interest. In light of *Monsanto*'s holding that a seizure of the Kaleys' property is erroneous only if unsupported by probable cause, the added procedure demanded here is not sufficiently likely to make any difference.

To begin the *Mathews* analysis, the Government has a substantial interest in freezing potentially forfeitable assets

without an evidentiary hearing about the probable cause underlying criminal charges. At the least, such an adversarial proceeding—think of it as a pre-trial mini-trial (or maybe a pre-trial not-so-mini-trial)—could consume significant prosecutorial time and resources. The hearing presumably would rehearse the case's merits, including the Government's theory and supporting evidence. And the Government also might have to litigate a range of ancillary questions relating to the conduct of the hearing itself (for example, could the Kaleys subpoena witnesses or exclude certain evidence?).

Still more seriously, requiring a proceeding of that kind could undermine the Government's ability either to obtain a conviction or to preserve forfeitable property. To ensure a favorable result at the hearing, the Government could choose to disclose all its witnesses and other evidence. But that would give the defendant knowledge of the Government's case and strategy well before the rules of criminal procedure—or principles of due process, see, *e. g.*, *Brady* v. *Maryland*, 373 U. S. 83 (1963)—would otherwise require. See Fed. Rules Crim. Proc. 26.2(a), 16(a)(2); *Weatherford* v. *Bursey*, 429 U. S. 545, 559–561 (1977) ("There is no general constitutional right to discovery in a criminal case"). And sometimes (particularly in organized crime and drug trafficking prosecutions, in which forfeiture questions often arise), that sneak preview might not just aid the defendant's preparations but also facilitate witness tampering or jeopardize witness safety. Alternatively, to ensure the success of its prosecution, the Government could hold back some of its evidence at the hearing or give up on the pre-trial seizure entirely. But if the Government took that tack, it would diminish the likelihood of ultimately recovering stolen assets to which the public is entitled.[11] So any defense counsel

[11] The dissent says not to worry—the Government can obtain the assets after conviction by using 21 U. S. C. § 853(c)'s "relation-back" provision. See *post*, at 355. That provision is intended to aid the Government in recovering funds transferred to a third party—here, the Kaleys' lawyer—

worth his salt—whatever the merits of his case—would put the prosecutor to a choice: "Protect your forfeiture by providing discovery" *or* "protect your conviction by surrendering the assets."[12] It is small wonder that the Government wants to avoid that lose-lose dilemma.

For their part, however, defendants like the Kaleys have a vital interest at stake: the constitutional right to retain counsel of their own choosing. See *Wheat* v. *United States*, 486 U. S. 153, 159 (1988) (describing the scope of, and various limits on, that right). This Court has recently described that right, separate and apart from the guarantee to effective representation, as "the root meaning" of the Sixth Amendment. *United States* v. *Gonzalez-Lopez*, 548 U. S. 140, 147–148 (2006); cf. *Powell* v. *Alabama*, 287 U. S. 45, 53 (1932) ("It is hardly necessary to say that, the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his own choice").[13] Indeed, we have held that the wrongful

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subsequent to the crime. But forfeiture applies only to specific assets, so in the likely event that the third party has spent the money, the Government must resort to a State's equitable remedies—which may or may not even be available—to force him to disgorge an equivalent amount. See Tr. of Oral Arg. 48–49. And indeed, if the Government *could* easily recover such monies, then few lawyers would agree to represent defendants like the Kaleys, and the dissent's proposed holding would be for naught.

[12] Compare Cassella, Criminal Forfeiture Procedure, 32 Am. J. Crim. L. 55, 63 (2004) (explaining that "defendants tend to demand the hearing . . . to afford defense counsel an early opportunity to discover the nature of the Government's criminal case and to cross-examine some of the Government's witnesses"), with May, Attorney Fees and Government Forfeiture, 34 Champion 20, 23 (Apr. 2010) (advising that "[e]ven if defense counsel cannot prevail on the facts or the law, he may be able to prevail anyway" because "[s]ometimes the government will decide to give up its restraint on a piece of property rather than engage in litigation that will result in early discovery").

[13] Still, a restraint on assets could not deprive the Kaleys of representation sufficient to ensure fair proceedings. The Sixth Amendment would require the appointment of effective counsel if the Kaleys were unable to hire a lawyer. See *Strickland* v. *Washington*, 466 U. S. 668 (1984); *Gideon* v. *Wainwright*, 372 U. S. 335 (1963). The vast majority of criminal defend-

deprivation of choice of counsel is "structural error," immune from review for harmlessness, because it "pervades the entire trial." *Gonzalez-Lopez*, 548 U. S., at 150. Different lawyers do all kinds of things differently, sometimes "affect[ing] whether and on what terms the defendant . . . plea bargains, or decides instead to go to trial"—and if the latter, possibly affecting whether she gets convicted or what sentence she receives. *Ibid.* So for defendants like the Kaleys, having the ability to retain the "counsel [they] believe[ ] to be best"—and who might in fact be superior to any existing alternatives—matters profoundly. *Id.*, at 146.

And yet *Monsanto* held, crucially for the last part of our *Mathews* analysis, that an asset freeze depriving a defendant of that interest is *erroneous* only when unsupported by a finding of probable cause. Recall that *Monsanto* considered a case just like this one, where the defendant wanted to use his property to pay his preferred lawyer. He urged the Court to hold that the Government could seize assets needed for that purpose only after conviction. But we instead decided that the Government could act "after probable cause [that the assets are forfeitable] is adequately established." 491 U. S., at 616. And that means in a case like this one—where the assets' connection to the allegedly illegal conduct is not in dispute, see *supra*, at 325–326—that a pre-trial seizure is wrongful only when there is no probable cause to believe the defendants committed the crimes charged. Or to put the same point differently, such a freeze is erroneous—notwithstanding the weighty burden it imposes on the defendants' ability to hire a chosen lawyer—only when the grand jury should never have issued the indictment.

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ants proceed with appointed counsel. And the Court has never thought, as the dissent suggests today, that doing so risks the "fundamental fairness of the actual trial." *Post*, at 351; see *post*, at 356–357. If it does, the right way to start correcting the problem is not by adopting the dissent's position, but by ensuring that the right to effective counsel is fully vindicated.

The *Mathews* test's remaining prong—critical when the governmental and private interests both have weight—thus boils down to the "probable value, if any," of a judicial hearing in uncovering mistaken grand jury findings of probable cause. 424 U. S., at 335. The Kaleys (and the dissent) contend that such proceedings will serve an important remedial function because grand juries hear only a "one-sided presentation[ ]" of evidence. Brief for Petitioners 57; see *post*, at 355–356. And that argument rests on a generally sound premise: that the adversarial process leads to better, more accurate decision-making. But in this context—when the legal standard is merely probable cause and the grand jury has already made that finding—both our precedents and other courts' experience indicate that a full-dress hearing will provide little benefit.

This Court has repeatedly declined to require the use of adversarial procedures to make probable cause determinations. Probable cause, we have often told litigants, is not a high bar: It requires only the "kind of 'fair probability' on which 'reasonable and prudent [people,] not legal technicians, act.'" *Florida* v. *Harris*, 568 U. S. 237, 244 (2013) (quoting *Illinois* v. *Gates*, 462 U. S. 213, 231, 238 (1983)); see *Gerstein*, 420 U. S., at 121 (contrasting probable cause to reasonable-doubt and preponderance standards). That is why a grand jury's finding of probable cause to think that a person committed a crime "can be [made] reliably without an adversary hearing," *id.*, at 120; it is and "has always been thought sufficient to hear only the prosecutor's side," *Williams*, 504 U. S., at 51. So, for example, we have held the "confrontation and cross-examination" of witnesses unnecessary in a grand jury proceeding. *Gerstein*, 420 U. S., at 121–122. Similarly, we have declined to require the presentation of exculpatory evidence, see *Williams*, 504 U. S., at 51, and we have allowed the introduction of hearsay alone, see *Costello*, 350 U. S., at 362–364. On each occasion, we relied on the same reasoning, stemming from our recognition that proba-

ble cause served only a gateway function: Given the relatively undemanding "nature of the determination," the value of requiring any additional "formalities and safeguards" would "[i]n most cases . . . be too slight." *Gerstein*, 420 U. S., at 121–122.

We can come out no differently here. The probable cause determinations the Kaleys contest are simply those underlying the charges in the indictment. No doubt the Kaleys could seek to poke holes in the evidence the Government offered the grand jury to support those allegations. No doubt, too, the Kaleys could present evidence of their own, which might cast the Government's in a different light. (Presumably, the Kaleys would try in those two ways to show that they did not steal, but instead lawfully obtained, the medical devices they later resold. See *supra*, at 325.) Our criminal justice system of course relies on such contestation at trial when the question becomes whether a defendant is guilty beyond peradventure. But as we have held before, an adversarial process is far less useful to the threshold finding of probable cause, which determines only whether adequate grounds exist to proceed to trial and reach that question. The probable cause decision, by its nature, is hard to undermine, and still harder to reverse. So the likelihood that a judge holding an evidentiary hearing will repudiate the grand jury's decision strikes us, once more, as "too slight" to support a constitutional requirement. *Gerstein*, 420 U. S., at 122.

The evidence from other courts corroborates that view, over and over and over again. In the past two decades, the courts in several Circuits have routinely held the kind of hearing the Kaleys seek. See *supra*, at 324, and n. 4. Yet neither the Kaleys nor their *amici* (mostly lawyers' associations) have found a single case in which a judge found an absence of probable cause to believe that an indicted defendant committed the crime charged. One *amicus* cites 25 reported cases involving pre-trial hearings on asset freezes.

See Brief for New York Council of Defense Lawyers 4, n. 2. In 24 of those, the defendant lost outright. The last involved a not-yet-indicted defendant (so no grand jury finding); there, the District Court's ruling for him was reversed on appeal. See Tr. of Oral Arg. 15, 36. To be sure, a kind of selection bias might affect those statistics: Perhaps a prosecutor with a very weak case would choose to abandon an asset freeze rather than face a difficult hearing. See *id.*, at 16, 37. But the Kaleys and their *amici* have also failed to offer any anecdotes of that kind; and we suspect that the far more common reason a prosecutor relinquishes a freeze is just to avoid premature discovery. See *supra*, at 335–336. So experience, as far as anyone has discerned it, cuts against the Kaleys: It confirms that even under *Mathews*, they have no right to revisit the grand jury's finding.[14]

IV

When we decided *Monsanto*, we effectively resolved this case too. If the question in a pre-trial forfeiture case is whether there is probable cause to think the defendant com-

[14] As against all this—all we have formerly held and all other courts have actually found—the dissent cites nothing: not a single decision of ours suggesting, nor a single decision of a lower court demonstrating, that formal, adversarial procedures are at all likely to correct any grand jury errors. The dissent argues only that a hearing will have "probable value" for the Kaleys because "the deprivation of [their] right" to chosen counsel, once accomplished, is "effectively permanent." *Post*, at 356. But that argument confuses two different parts of the *Mathews* inquiry. The dissent's point well underscores the importance of the Kaleys' interest: As we have readily acknowledged, if the grand jury made a mistake, the Kaleys have suffered a serious injury, which cannot later be corrected. See *supra*, at 336–337. (We note, though, that the dissent, in asserting that injury's uniqueness, understates the losses that always attend a mistaken indictment, which no ultimate verdict can erase.) But the dissent's argument about what is at stake for the Kaleys says nothing about the crucial, last prong of *Mathews*, which asks whether and to what extent the adversarial procedures they request will in fact correct any grand jury errors. That part of the analysis is what requires our decision, and the dissent's view that the Government overreached in this particular case cannot overcome it.

mitted the crime alleged, then the answer is: whatever the grand jury decides. And even if we test that proposition by applying *Mathews*, we arrive at the same place: In considering such findings of probable cause, we have never thought the value of enhanced evidentiary procedures worth their costs. Congress of course may strike its own balance and give defendants like the Kaleys the kind of hearing they want. Indeed, Congress could disapprove of *Monsanto* itself and hold pre-trial seizures of property to a higher standard than probable cause. But the Due Process Clause, even when combined with a defendant's Sixth Amendment interests, does not command those results. Accordingly, the Kaleys cannot challenge the grand jury's conclusion that probable cause supports the charges against them. The grand jury gets the final word.

We therefore affirm the judgment of the Eleventh Circuit and remand the case for further proceedings consistent with this opinion.

It is so ordered.

CHIEF JUSTICE ROBERTS, with whom JUSTICE BREYER and JUSTICE SOTOMAYOR join, dissenting.

An individual facing serious criminal charges brought by the United States has little but the Constitution and his attorney standing between him and prison. He might readily give all he owns to defend himself.

We have held, however, that the Government may effectively remove a defendant's primary weapon of defense—the attorney he selects and trusts—by freezing assets he needs to pay his lawyer. That ruling is not at issue. But today the Court goes further, holding that a defendant may be hobbled in this way without an opportunity to challenge the Government's decision to freeze those needed assets. I cannot subscribe to that holding and respectfully dissent.

I

The facts of this case are important. They highlight the significance to a defendant of being able to hire his counsel

of choice, and the potential for unfairness inherent in giving the prosecutor the discretion to take that right away. Kerri Kaley worked as a sales representative for a Johnson & Johnson subsidiary, selling prescription medical devices. Kaley and other sales representatives occasionally obtained outmoded or surplus devices from staff members at the medical facilities they served, when, for example, those devices were no longer needed because they had been superseded by newer models. Kaley sold the unwanted devices to a Florida company, dividing the proceeds among the sales representatives.

Kaley learned in January 2005 that a federal grand jury was investigating those activities as a conspiracy to sell stolen prescription medical devices. Kaley and her husband (who allegedly helped ship the products to Florida) retained counsel, who immediately set to work preparing their defense against any impending charges. Counsel regularly discussed the investigation with the Kaleys, helped review documents demanded by the grand jury, and met with prosecutors in an attempt to ward off an indictment. Nonetheless preparing for the worst, the Kaleys applied for a $500,000 equity line of credit on their home to pay estimated legal fees associated with a trial. They used that money to purchase a $500,000 certificate of deposit, which they set aside until it would be needed to pay their attorneys for the trial.

In February 2007, the grand jury returned a seven-count indictment charging the Kaleys and another sales representative, Jennifer Gruenstrass, with violations of federal law. The indictment alleged that a "money judgment" of over $2 million and the $500,000 certificate of deposit were subject to forfeiture under 18 U. S. C. § 981(a)(1)(C) because those assets constituted "proceeds" of the alleged crimes. Armed with this indictment, the prosecution obtained an *ex parte* order pursuant to 21 U. S. C. § 853(e), thereby freezing all of the Kaleys' assets listed in the indictment, including the certificate of deposit set aside for legal fees. The

Government did not seek to freeze any of Gruenstrass's assets.

The Kaleys moved to vacate the order, requesting a hearing at which they could argue that there was no probable cause to believe their assets were forfeitable, because their alleged conduct was not criminal. They argued they were entitled to such a hearing because the restraining order targeted funds they needed and had set aside to retain for trial the same counsel who had been preparing their defense for two years. And they contended that the prosecution was baseless because the Government could not identify anyone who claimed ownership of the medical devices alleged to have been "stolen." During a telephone conference with a Magistrate Judge on the motion, the prosecution conceded that it had been able to trace only $140,000 in allegedly criminal proceeds to the Kaleys, which led the Magistrate Judge to question the lawfulness of restraining the listed assets.

Just two business days after that conference, the Government obtained a superseding indictment that added a count of conspiracy to commit money laundering under 18 U. S. C. § 1956(h). Adding that charge enabled the Government to proceed under a much broader forfeiture provision than the one in the original indictment. While the civil forfeiture provision in § 981(a)(1)(C) authorized forfeiture of property that "constitutes or is derived from proceeds traceable to" a qualifying criminal violation, the criminal forfeiture provision now invoked by the Government—§ 982(a)(1)—authorizes forfeiture of property "involved in" a qualifying offense, or "any property traceable to such property." The superseding indictment alleged that a sum of more than $2 million, the certificate of deposit reserved to pay legal expenses, and now the Kaleys' home were subject to forfeiture. And again, the Government sought an order freezing substantially all those assets.

The Kaleys objected, repeating the arguments they had previously raised, and also contending that the prosecutors

were being vindictive in adding the money laundering charge and seeking broader forfeiture. The District Court nonetheless entered the broader order requested by the Government, and the restraint on the Kaleys' assets remains in place.

While the Kaleys' appeal from that denial was pending, the Government proceeded to trial separately against their codefendant Gruenstrass. As the Government had not sought to freeze Gruenstrass's assets, she was represented by her chosen counsel. Her counsel argued that the Government was pitching a fraud without a victim, because no Government witness took the stand to claim ownership of the allegedly stolen devices. The jury acquitted Gruenstrass on all charges in less than three hours—a good omen for the Kaleys and their counsel as they prepared for their own trial.

II

The issues at stake here implicate fundamental constitutional principles. The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." In many ways, this is the most precious right a defendant has, because it is his attorney who will fight for the other rights the defendant enjoys. *United States* v. *Cronic*, 466 U. S. 648, 653–654 (1984). And more than 80 years ago, we found it "hardly necessary to say that, the right to counsel being conceded, a defendant should be afforded a fair opportunity to secure counsel of his own choice." *Powell* v. *Alabama*, 287 U. S. 45, 53 (1932).

Indeed, we recently called the "right to select counsel of one's choice . . . the root meaning of the constitutional guarantee" of the Sixth Amendment. *United States* v. *Gonzalez-Lopez*, 548 U. S. 140, 147–148 (2006). The Amendment requires "that a particular guarantee of fairness be provided—to wit, that the accused be defended by the counsel he believes to be best." *Id.*, at 146. An individual's right

to counsel of choice is violated "*whenever* the defendant's choice is wrongfully denied," and such error "pervades the entire trial." *Id.*, at 150. A violation of this right is therefore a "structural error," *ibid.*; that is, one of the very few kinds of errors that "undermine the fairness of a criminal proceeding as a whole." *United States* v. *Davila*, 569 U. S. 597, 611 (2013).

It is of course true that the right to counsel of choice is (like most rights) not absolute. A defendant has no right to choose counsel he cannot afford, counsel who is not a member of the bar, or counsel with an impermissible conflict of interest. *Wheat* v. *United States*, 486 U. S. 153, 159 (1988). And a district court need not always shuffle its calendar to accommodate a defendant's preferred counsel if it has legitimate reasons not to do so. *Morris* v. *Slappy*, 461 U. S. 1, 11–12 (1983). But none of those limitations is imposed at the unreviewable discretion of a prosecutor—the party who wants the defendant to lose at trial.

This Court has held that the prosecution may freeze assets a defendant needs to retain his counsel of choice upon "a finding of probable cause to believe that the assets are forfeitable." *United States* v. *Monsanto*, 491 U. S. 600, 615 (1989). The Kaleys do not challenge that holding here. But the Court in *Monsanto* acknowledged and reserved the crucial question whether a defendant had the right to be heard before the Government could take such action. *Id.*, at 615, n. 10.[1]

There was good reason for that caution. The possibility that a prosecutor could elect to hamstring his target by preventing him from paying his counsel of choice raises substantial concerns about the fairness of the entire proceeding. "A fair trial in a fair tribunal is a basic requirement of due proc-

[1] Because the District Court in *Monsanto* had imposed the restraining order after an "extensive, 4-day hearing on the question of probable cause," it was "pointless" for this Court to decide whether a hearing was required to "adequately establish[ ]" probable cause. 491 U. S., at 615, n. 10, 616.

ess." *In re Murchison*, 349 U. S. 133, 136 (1955). Issues concerning the denial of counsel of choice implicate the overall fairness of the trial because they "bear[ ] directly on the 'framework within which the trial proceeds.' " *Gonzalez-Lopez*, *supra*, at 150 (quoting *Arizona* v. *Fulminante*, 499 U. S. 279, 310 (1991)).

III

Notwithstanding the substantial constitutional issues at stake, the majority believes that syllogistic-type reasoning effectively resolves this case. *Ante*, at 333. The majority's reasoning goes like this: First, to freeze assets prior to trial, the Government must show probable cause to believe that a defendant has committed an offense giving rise to forfeiture. Second, grand jury determinations of probable cause are nonreviewable. Therefore, the Kaleys cannot "relitigate [the] grand jury finding" of probable cause to avoid a pretrial restraint of assets they need to retain their counsel of choice. *Ibid.* I do not view the matter as nearly so "straightforward," and neither did the multiple Courts of Appeals since *Monsanto* that have granted defendants the type of hearing the Kaleys request. See *ante*, at 324, n. 4.

To begin with, the majority's conclusion is wrong on its own terms. To freeze assets prior to trial, the Government must show probable cause to believe both that (1) a defendant has committed an offense giving rise to forfeiture and (2) the targeted assets have the requisite connection to the alleged criminal conduct. 21 U. S. C. § 853(e)(1)(A). The Solicitor General concedes—and *all* Courts of Appeals to have considered the issue have held—that "defendants are entitled to show that the assets that are restrained are not actually the proceeds of the charged criminal offense," Tr. of Oral Arg. 45; that is, that the second prong of the required showing is not satisfied. But by listing property in the indictment and alleging that it is subject to forfeiture—as required to restrain assets before trial under § 853(e)(1)(A)—the grand jury found probable cause to believe those assets were linked

to the charged offenses, just as it found probable cause to believe the Kaleys committed the underlying crimes. App. 60–61 (separate indictment section alleging criminal forfeiture, including of the certificate of deposit); see *United States* v. *Jones*, 160 F. 3d 641, 645 (CA10 1998); *United States* v. *Monsanto*, 924 F. 2d 1186, 1197 (CA2 1991) (en banc); Dept. of Justice, Asset Forfeiture Policy Manual 128 (2013) ("That the indictment alleges that property is subject to forfeiture indicates that the grand jury has made a probable cause determination"). Neither the Government nor the majority gives any reason why the District Court may reconsider the grand jury's probable cause finding as to traceability—and in fact constitutionally *must*, if asked—but may not do so as to the underlying charged offenses.[2]

In any event, the hearing the Kaleys seek would not be mere relitigation of the grand jury proceedings. At that hearing, the District Court would consider the merits of the prosecution to determine whether there is probable cause to believe the Kaleys' assets are forfeitable, not to determine whether the Kaleys may be tried at all. If the judge agrees with the Kaleys, he will merely hold that the Government has not met its burden at that hearing to justify freezing the assets the Kaleys need to pay their attorneys. The Government may proceed with the prosecution, but the Kaleys will have their chosen counsel at their side.

Even though the probable cause standard applies at both the indictment stage and the pretrial asset restraint hearing, the judge's determination will be based on different evidence

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[2] The majority's only response is to characterize the grand jury's finding of traceability as merely a "technical matter." *Ante*, at 331, n. 9. But the indictment draws no distinction between the grand jury's finding of probable cause to believe that the Kaleys committed a crime and its finding of probable cause to believe that certain assets are traceable to that crime. Both showings must be made to justify a pretrial asset restraint under *Monsanto*, and there is nothing in that case or the indictment that justifies treating one grand jury finding differently than the other.

than that previously presented to the grand jury. For its part, the Government may choose to put on more or less evidence at the hearing than it did before the grand jury. And of course the Kaleys would have the opportunity to tell their side of the story—something the grand jury never hears. See *United States* v. *Williams*, 504 U. S. 36, 51–52 (1992). Here, much of what the Kaleys want to present comes from Gruenstrass's trial—evidence that the grand jury obviously could not have considered. So even if the judge determined that probable cause to justify the pretrial asset restraint had not been adequately established, that determination would not in any way amount to "looking into and revising the judgment of the grand jury upon the evidence, for the purpose of determining whether or not the finding was founded upon sufficient proof." *Ante*, at 328 (quoting *Costello* v. *United States*, 350 U. S. 359, 362–363 (1956); internal quotation marks omitted). The judge's decision based on the evidence presented at the hearing would have no necessary legal or logical consequence for the underlying prosecution because it would be based on different evidence and used for a different purpose.

The majority warns that allowing a judge to consider the underlying merits of the prosecution for purposes of determining whether a defendant's assets may be restrained pretrial could create "legal dissonance" with the grand jury's indictment, which "could not but undermine the criminal justice system's integrity." *Ante*, at 331. But as explained, such a judicial finding based on different evidence with both sides present would not contradict the grand jury's probable cause finding based on what was before it. That finding would still suffice to accomplish *its* purpose—to call for a trial on the merits of the charges. Rather than creating "dissonance," the traditional roles of the principal actors in our justice system would remain respected: The grand jury decides whether a defendant should be required to stand trial, the judge decides pretrial matters and how the trial

should proceed, and the jury decides whether the defendant is guilty of the crime.

Indeed, in the bail context—the pretrial determination that is perhaps the closest analogue to the pretrial restraint of assets at issue here—we allow judicial inquiries into the underlying merits of the indicted charges, without concern about intruding into the province of the grand jury. An indictment charging sufficiently serious crimes gives rise to a rebuttable presumption that a defendant is not eligible for pretrial release. See 18 U. S. C. §§ 3142(e)(3) and (f). Such a defendant is nonetheless entitled to an evidentiary hearing at which he may contest (among other things) "the weight of the evidence against" him, § 3142(g)(2). Yet no one would say that the district court encroached on the grand jury's role if the court determined that it would not authorize pretrial detention because of the weakness of the prosecution's case. See, *e. g.*, *United States* v. *Hurtado*, 779 F. 2d 1467, 1479–1480 (CA11 1985) (recognizing that in considering the "weight of the evidence" to decide whether the presumption is rebutted, "it may well be necessary to open up the issue of probable cause since that too is a question of evidentiary weight"). That makes sense, because the district court has considered the underlying merits of the charges based on different information and for a different purpose than the grand jury did. Such a defendant would be granted pretrial release, but would still have to show up for trial.[3]

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[3] The majority cites cases in which courts have correctly rejected requests for a judicial redetermination of the grand jury's probable cause finding for purposes of determining whether the *rebuttable presumption* of pretrial detention is triggered. See *ante*, at 329, n. 6. But those cases do not question the judge's authority to consider the underlying merits of the Government's case (including what the grand jury has alleged in the indictment) for purposes of determining whether that presumption has been rebutted. *E. g.*, *United States* v. *Dominguez*, 783 F. 2d 702, 706 (CA7 1986) ("evidence probative of guilt is admitted at a detention hearing only to support or challenge the weight of the government's case against the defendant"); see also *United States* v. *Jones*, 583 F. Supp. 2d 513, 517

In any event, few things could do more to "undermine the criminal justice system's integrity," *ante*, at 331, than to allow the Government to initiate a prosecution and then, at its option, disarm its presumptively innocent opponent by depriving him of his counsel of choice—without even an opportunity to be heard. That is the result of the Court's decision in this case, and it is fundamentally at odds with our constitutional tradition and basic notions of fair play.

IV

The majority is no more persuasive in applying the due process balancing test set forth in *Mathews* v. *Eldridge*, 424 U. S. 319 (1976).[4] As an initial matter, the majority gives short shrift to the Kaleys' interests at stake. "The presumption of

(SDNY 2008) (releasing a defendant pretrial after determining that "the weight of the evidence now overcomes the presumption of detention"). The majority notes that this inquiry in the bail context is authorized by statute, but that does not alter the crucial point: Where the prosecutor seeks to use the indictment to impose another significant pretrial consequence on a defendant, judges are allowed to inquire into the underlying merits of the prosecution (including the very same matters the grand jury has considered) as part of the inquiry into whether that consequence is justified, and that has not resulted in "dissonance" or the undermining of the grand jury's role.

[4] Under our due process precedents, it is clear that the *Mathews* test applies in this case, rather than the inquiry set forth in *Medina* v. *California*, 505 U. S. 437 (1992). We held in *Medina* that *Mathews* is inapplicable when "assessing the validity of state procedural rules" that "are part of the criminal process." 505 U. S., at 443. We have therefore applied *Medina* rather than *Mathews* only when considering such due process challenges, including, for example, the allocation of burdens of proof or what type of evidence may be admitted. See, *e. g.*, 505 U. S., at 443–446 (burden of proving incompetence to stand trial); *Patterson* v. *New York*, 432 U. S. 197, 202 (1977) (burden of proving affirmative defense); *Dowling* v. *United States*, 493 U. S. 342, 352 (1990) (admissibility of testimony about a prior crime of which the defendant was acquitted). This case is not about such questions, but about the collateral issue of the pretrial deprivation of property a defendant needs to exercise his right to counsel of choice. *Mathews* therefore provides the relevant inquiry.

innocence, although not articulated in the Constitution, is a basic component of a fair trial under our system of criminal justice." *Estelle* v. *Williams*, 425 U. S. 501, 503 (1976). Whatever serious crimes the grand jury alleges the Kaleys committed, they are presumptively innocent of those charges until final judgment. Their right to vindicate that presumption by choosing the advocate they believe will best defend them is, as explained, at the very core of the Sixth Amendment.

I suspect that, for the Kaleys, that right could hardly be more precious than it is now. In addition to potentially losing the property the Government has already frozen—including their home—the Kaleys face maximum prison terms of five years (18 U. S. C. § 371), 10 years (§ 2314), and 20 years (§ 1956(h)) for the charges in the superseding indictment. The indictment means they must stand trial on those charges. But the Kaleys plainly have an urgent interest in having their chosen counsel—who has worked with them since the grand jury's investigation began, two years before the indictment—mount their best possible defense at trial.

The majority alludes to our cases recognizing that indictments may result in the temporary deprivation of a defendant's liberty without judicial review, and suggests that indictments therefore must also be "good enough" to deprive a defendant of property without judicial review. *Ante*, at 330–331. Even if this greater-includes-the-lesser reasoning might be valid in other contexts, it is not when the property at issue is needed to hire chosen counsel. In the context of a prosecution for serious crimes, it is far from clear which interest is greater—the interest in temporary liberty pending trial, or the interest in using one's available means to avoid imprisonment for many years after trial. Retaining one's counsel of choice ensures the fundamental fairness of the actual trial, and thus may be far more valuable to a criminal defendant than pretrial release.

As for the Government's side, the Court echoes the Government's concerns that a hearing would place demands on

its resources and interfere with its desire to keep its trial strategy close to the vest. These concerns are somewhat curious in light of the majority's emphasis on how easy it is to make a probable cause showing. And they are even more surprising in light of the extensive discovery obligations already imposed on the Government by Federal Rule of Criminal Procedure 16 and *Brady* v. *Maryland*, 373 U. S. 83 (1963). The emphasis the Government places on pretrial secrecy evokes an outdated conception of the criminal trial as "a poker game in which players enjoy an absolute right always to conceal their cards until played." *Williams* v. *Florida*, 399 U. S. 78, 82 (1970).

Moreover, recall that the Government concedes that due process guarantees defendants a hearing to contest the traceability of the restrained assets to the charged conduct. If a defendant requests such a hearing, the Government will likely be required to reveal something about its case to demonstrate that the assets have the requisite connection to the charged offenses.

In any event, these concerns are exaggerated. What the Government would be required to show in a pretrial restraint hearing is similar to pretrial showings prosecutors make in other contexts on a daily basis. As mentioned above, when the Government seeks an order detaining a defendant pending trial, it routinely makes an extensive evidentiary showing—voluntarily disclosing much of its evidence and trial strategy—in support of that relief. See Brief for California Attorneys for Criminal Justice as *Amicus Curiae* 11–18. The Government makes similar showings in the context of other pretrial motions, such as motions to admit hearsay evidence under the co-conspirator exception, or to discover attorney-client communications made in furtherance of a future crime. *Id.*, at 19–28.

In those contexts, as in this one, the decision how much to "show its hand" rests fully within the Government's discretion. If it has a strong case and believes that pretrial re-

straint is necessary to preserve the assets for forfeiture, the Government may choose to make a strong evidentiary showing and have little concern about doing so. In a closer case, where the Government is more concerned about tipping its hand, it may elect to forgo a pretrial restraint of those assets the defendant needs to pay his counsel. I see no great burden on the Government in allowing it to strike this balance as it sees fit when considering a pretrial asset restraint that would deprive a defendant of his right to counsel of choice. In the end, it is a bit much to argue that the Government has discretion to deprive a defendant—without a hearing—of the counsel he has chosen to present his defense, simply to avoid the mere possibility of a premature peek at some aspect of what the Government intends to do at trial.

The majority also significantly underestimates the amount of control judges can exercise in these types of hearings. The Circuits that allow such hearings have afforded judges a great deal of flexibility in structuring them. Judges need not apply the Federal Rules of Evidence during the hearings, and they can take many steps, including *in camera* proceedings, to ensure that witness safety and grand jury secrecy are fully preserved. See *Monsanto*, 924 F. 2d, at 1198; *United States* v. *E-Gold, Ltd.*, 521 F. 3d 411, 418–419 (CADC 2008).

Moreover, experience in the Second Circuit, where defendants have for more than 20 years been afforded the type of hearing the Kaleys seek, indicates that such hearings do not occur so often as to raise substantial concerns about taxing the resources of the Government and lower courts. See Brief for New York Council of Defense Lawyers as *Amicus Curiae* 4–9. As the majority notes, only 25 reported cases appear to have addressed such hearings. *Id.*, at 4. This relative rarity is unsurprising. To even be entitled to the hearing, defendants must first show a genuine need to use the assets to retain counsel of choice. See *United States* v.

Bonventre, 720 F. 3d 126, 131 (CA2 2013). And defendants too have an incentive not to tip their hands as to trial strategy—perhaps to an even greater extent than the Government, given that defendants bear comparatively few discovery obligations at a criminal trial. In light of the low bar of the probable cause standard, many defendants likely conclude that the possible benefits of the hearing are not worth the candle.

For those hearings that do occur, they are by all appearances ably controlled by district judges to keep them manageable and to limit the potential for excess or abuse. See Brief for New York Council of Defense Lawyers as *Amicus Curiae* 6–8. In addition, where such hearings are allowed, prosecutors and defense counsel often reach agreements concerning the scope and conditions of any protective order that accommodate the interests of both sides. See *id.*, at 8–9. When the right at stake is as fundamental as hiring one's counsel of choice—the "root meaning" of the Sixth Amendment, *Gonzalez-Lopez*, 548 U. S., at 147–148—the Government's interest in saving the time and expense of a limited number of such proceedings is not particularly compelling.

The Government does have legitimate interests that are served by forfeiture of allegedly tainted assets. *Caplin & Drysdale, Chartered* v. *United States*, 491 U. S. 617, 629 (1989). And imposing a pretrial restraint on such assets does increase the likelihood that they will be available if the defendant is convicted.[5] But that interest is protected in

[5] The Government and the majority place particular emphasis on the use of forfeited assets to provide restitution to victims of crime. See Brief for United States 41–42, and n. 14; *ante*, at 323, n. 1. It is worth noting in this respect that in prosecuting the other sales representatives that participated with the Kaleys in the allegedly fraudulent conduct, the Government's position as to who exactly is the "victim" has shifted frequently. See Brief for Petitioners 9–11 (hospitals); *id.*, at 18, 21–23 (their employers); Tr. of Oral Arg. 43–44 (hospitals). As one prosecutor forthrightly

other ways that mitigate the concern that defendants will successfully divert forfeitable assets from the Government's reach if afforded a hearing. The relation-back provision in 21 U. S. C. § 853(c) provides that title to forfeitable assets, once adjudged forfeitable, vests in the Government as of the time the offense was committed. Section 853(c) then provides that the Government may seek a "special verdict of forfeiture" as to any forfeited property that was subsequently transferred to a third party. The Government protests that recovery of such assets will often be complicated and subject to the vagaries of state law. Tr. of Oral Arg. 49–50. But such complaints of administrative inconvenience carry little weight in this particular context, when the Government knows exactly where the money has gone: to an attorney who is, after all, an officer of the court, and on notice that the Government claims title to the assets.

And we are not talking about all of a defendant's assets that are subject to forfeiture—only those that the defendant can show are necessary to secure his counsel of choice. Here, for example, the Kaleys have identified as needed to pay counsel only a discrete portion of the assets the Government seeks. The statistics cited by the Court on the total amount of assets recovered by the Government and provided as restitution for victims, *ante*, at 323, n. 1, are completely beside the point.

The majority ultimately concludes that a pretrial hearing of the sort the Kaleys seek would be a waste of time. *Ante*, at 338–340. No. It takes little imagination to see that seizures based entirely on *ex parte* proceedings create a heightened risk of error. Common sense tells us that secret decisions based on only one side of the story will prove inaccurate more often than those made after hearing from both sides. We have thus consistently recognized that the "fundamental instrument for judicial judgment" is "an adver-

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acknowledged at the sentencing hearing of an alleged co-conspirator, "we can't make restitution." Brief for Petitioners 11.

sary proceeding in which both parties may participate." *Carroll* v. *President and Comm'rs of Princess Anne*, 393 U. S. 175, 183 (1968). In the present context, some defendants (like the Kaleys) may be able to show that the theory of prosecution is legally defective through an argument that almost certainly was not presented to the grand jury. And as discussed above, *supra*, at 352–354, prosecutors in some cases elect not to freeze needed assets, or they negotiate tailored protective orders to serve the interests of both sides—something they would be unlikely to do if the hearings were rote exercises.

Given the risk of an erroneous restraint of assets needed to retain chosen counsel, the "probable value" of the "additional safeguard" a pretrial hearing would provide is significant. That is because the right to counsel of choice is inherently transient, and the deprivation of that right effectively permanent. In our cases suggesting that little would be gained by requiring an adversary hearing on probable cause or imposing stricter evidentiary requirements in grand jury proceedings, we have noted that the grand jury is not where the ultimate question of "the guilt or innocence of the accused is adjudicated." *United States* v. *Calandra*, 414 U. S. 338, 343 (1974); see *Williams*, 504 U. S., at 51 (explaining that the grand jury hears only from the prosecutor because "'the finding of an indictment is only in the nature of an enquiry or accusation, which is afterwards to be tried and determined'" (quoting 4 W. Blackstone, Commentaries 300 (1769))). If the grand jury considers incomplete or incompetent evidence in deciding to return an indictment, the defendant still has the full trial on the merits, with all its "formalities and safeguards," *Gerstein* v. *Pugh*, 420 U. S. 103, 122 (1975), to prove his innocence.

Here, by contrast, the Government seeks to use the grand jury's probable cause determination to strip the Kaleys of their counsel of choice. The Kaleys can take no comfort that

they will be able to vindicate that right in a future adversarial proceeding. Once trial begins with someone other than chosen counsel, the right is lost, and it cannot be restored based on what happens at trial. "The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews*, 424 U. S., at 333 (quoting *Armstrong* v. *Manzo*, 380 U. S. 545, 552 (1965)). If the Kaleys are to have any opportunity to meaningfully challenge that deprivation, they must have it before the trial begins.

* * *

The issues presented here implicate some of the most fundamental precepts underlying the American criminal justice system. A person accused by the United States of committing a crime is presumed innocent until proved guilty beyond a reasonable doubt. But he faces a foe of powerful might and vast resources, intent on seeing him behind bars. That individual has the right to choose the advocate he believes will most ably defend his liberty at trial.

The trial is governed by rules designed to ensure that, whatever the ultimate verdict, we can be confident to the extent possible that justice was done, within the bounds of the Constitution. That confidence is grounded in our belief in the adversary system. "The very premise of our adversary system of criminal justice is that partisan advocacy on both sides of a case will best promote the ultimate objective that the guilty be convicted and the innocent go free." *Herring* v. *New York*, 422 U. S. 853, 862 (1975). Today's decision erodes that confidence by permitting the Government to deprive a criminal defendant of his right to counsel of choice, without so much as a chance to be heard on why such a significant pretrial deprivation is unwarranted.

The majority wraps up its analysis by blandly noting that Congress is of course free to extend broader protection to

criminal defendants. *Ante*, at 341. Not very likely. In this area it is to the courts that those charged with crime must turn.

Federal prosecutors, when they rise in court, represent the people of the United States. But so do defense lawyers—one at a time. In my view, the Court's opinion pays insufficient respect to the importance of an independent bar as a check on prosecutorial abuse and government overreaching. Granting the Government the power to take away a defendant's chosen advocate strikes at the heart of that significant role. I would not do it, and so respectfully dissent.

Syllabus

UNITED STATES *v.* APEL

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

No. 12–1038. Argued December 4, 2013—Decided February 26, 2014

Vandenberg Air Force Base has been designated a "closed base," meaning that civilians may not enter without express permission. The Air Force has granted an easement over two areas of the Base, with the result that two public highways traverse the Base. Adjacent to one of those highways is an area that the Government has designated for peaceful protests. The Base commander has enacted several restrictions to control the protest area and has issued an advisory stating that anyone who fails to adhere to the protest area policies may be barred from entering the Base.

Respondent Apel was barred from the Base for trespassing and vandalism, but continued to enter the protest area. A Magistrate Judge convicted him of violating 18 U. S. C. § 1382, which makes it a crime to reenter a "military . . . installation" after having been ordered not to do so "by any officer or person in command." On appeal, the Federal District Court rejected Apel's defense that § 1382 does not apply to the designated protest area. The Ninth Circuit reversed. It held that because the easement through Vandenberg deprived the Government of exclusive possession, § 1382 did not cover the portion of the Base where Apel's protest occurred.

Held: A "military . . . installation" for purposes of § 1382 encompasses the commanding officer's area of responsibility, and it includes Vandenberg's highways and protest area. Pp. 366–373.

(a) Contrary to Apel's argument, § 1382 does not require exclusive possession and control. The statute is written broadly to apply to many different kinds of military places, and nothing in its text defines those places in terms of the access granted to the public or the nature of the Government's possessory interest. See *United States* v. *Albertini*, 472 U. S. 675, 682. Nor have military places been defined historically as land withdrawn from public use. The common feature of the places described in § 1382 is that they have defined boundaries and are subject to the command authority of a military officer. This conclusion is confirmed by *United States* v. *Phisterer*, 94 U. S. 219, 222, which defined the term "military station" as a place "where military duty is performed or military protection afforded." And while some Executive Branch documents have said that § 1382 requires exclusive possession, those

opinions are nonbinding, and this Court has never held that the Government's reading of a criminal statute is entitled to any deference. Pp. 367–369.

(b) Section 1382 applies to any place with a defined boundary that is under the command of a military officer. Apel contends that the highways and protest area are outside the Base because they lie outside fenced areas on the Base, but this argument assumes the conclusion. The United States has placed the entire Vandenberg property under the administration of the Air Force. The Air Force's choice to secure a portion of the Base more closely does not alter its boundaries or diminish its commander's jurisdiction. Apel's further contention that the highways and protest area are uncontrolled spaces where military operations are not performed is contrary to the record: The Base commander has enacted rules to restrict the manner of protests in the designated area and has publicly stated that persons barred from Vandenberg may not enter the Base to protest; the District Court found that the Government exercises substantial control over the protest area; the easement itself reserves to the Base commander the authority to restrict access to the entire Base when necessary and reserves to the United States rights of way for all purposes; and the Base commander has occasionally closed the highways to the public for security purposes or when conducting a military launch. In any event, § 1382 does not require base commanders to make continuous, uninterrupted use of a place within their jurisdiction, lest they lose authority to exclude certain individuals. Such a use-it-or-lose-it rule would frustrate the administration of military facilities, raise difficult questions for judges, and discourage commanders from opening portions of their bases for public convenience. Pp. 369–372.

(c) Apel's argument that the statute was unconstitutional as applied was not reached by the Ninth Circuit and, thus, is not addressed here. Pp. 372–373.

676 F. 3d 1202, vacated and remanded.

ROBERTS, C. J., delivered the opinion for a unanimous Court. GINSBURG, J., filed a concurring opinion, in which SOTOMAYOR, J., joined, *post*, p. 375. ALITO, J., filed a concurring opinion, *post*, p. 376.

Benjamin J. Horwich argued the cause for the United States. With him on the briefs were *Solicitor General Verrilli*, *Acting Assistant Attorney General Raman*, *Deputy Solicitor General Dreeben*, and *David M. Lieberman*.

Erwin Chemerinsky argued the cause for respondent. With him on the brief were *Kathryn M. Davis*, *Peter R. Afrasiabi*, *Paul L. Hoffman*, *Steven R. Shapiro*, *Ben Wizner*, and *Peter J. Eliasberg.**

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

Federal law makes it a crime to reenter a "military . . . installation" after having been ordered not to do so "by any officer or person in command." 18 U. S. C. § 1382. The question presented is whether a portion of an Air Force base that contains a designated protest area and an easement for a public road qualifies as part of a "military installation."

I

A

Vandenberg Air Force Base is located in central California, near the coast, approximately 170 miles northwest of Los Angeles. The Base sits on land owned by the United States and administered by the Department of the Air Force. It is the site of sensitive missile and space launch facilities. The commander of Vandenberg has designated it a "closed base," meaning that civilians may not enter without express permission. Memorandum for the General Public Re: Closed Base, from David J. Buck, Commander (Oct. 23, 2008), App.

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*Briefs of *amici curiae* urging affirmance were filed for the Ground Zero Center for Nonviolent Action by *Christine M. Salmi* and *John R. Tyler*; for the National Association of Criminal Defense Lawyers by *Michael V. Schafler*, *Jeffrey L. Fisher*, and *Albert Giang*; for the Nuclear Age Peace Foundation by *Matthew D. Umhofer* and *Kevin J. Minnick*; for the Reporters Committee for Freedom of the Press et al. by *Robert Corn-Revere*, *Ronald G. London*, *Bruce D. Brown*, *Gregg P. Leslie*, *Kelli L. Sager*, *Richard A. Bernstein*, *Charles D. Tobin*, *Mickey H. Osterreicher*, *Barbara L. Camens*, *Jonathan D. Hart*, *Bruce W. Sanford*, and *Laurie A. Babinski*; and for The Rutherford Institute by *John W. Whitehead*.

51; see also 32 CFR § 809a.2(b) (2013) ("Each [Air Force] commander is authorized to grant or deny access to their installations, and to exclude or remove persons whose presence is unauthorized").

Although the Base is closed, the Air Force has granted to the County of Santa Barbara "an easement for a right-of-way for a road or street" over two areas within Vandenberg. Department of the Air Force, Easement for Road or Street No. DA–04–353–ENG–8284 (Aug. 20, 1962), App. 35. Pursuant to that easement, two state roads traverse the Base. Highway 1 (the Pacific Coast Highway) runs through the eastern part of the Base and provides a route between the towns of Santa Maria and Lompoc. Highway 246 runs through the southern part of the Base and allows access to a beach and a train station on Vandenberg's western edge. The State of California maintains and polices these highways as it does other state roads, except that its jurisdiction is merely "concurrent" with that of the Federal Government. Letter from Governor Edmund G. Brown, Jr., to Joseph C. Zengerle, Assistant Secretary of the Air Force (July 21, 1981), App. 40. The easement instrument states that use of the roads "shall be subject to such rules and regulations as [the Base commander] may prescribe from time to time in order to properly protect the interests of the United States." Easement, App. 36. The United States also "reserves to itself rights-of-way for all purposes" that would not create "unnecessary interference with . . . highway purposes." *Id.*, at 37.

As relevant to this case, Highway 1 runs northwest several miles inside Vandenberg until it turns northeast at a 90-degree angle. There Highway 1 intersects with Lompoc Casmalia Road, which continues running northwest, and with California Boulevard, which runs southwest. In the east corner of this intersection there is a middle school. In the west corner there is a visitors' center and a public bus stop. A short way down California Boulevard is the main

entrance to the operational areas of the Base where military personnel live and work. Those areas are surrounded by a fence and entered by a security checkpoint. See Appendix, *infra* (maps from record).

In the south corner of the intersection is an area that has been designated by the Federal Government for peaceful protests. A painted green line on the pavement, a temporary fence, Highway 1, and Lompoc Casmalia Road mark the boundaries of the protest area. Memorandum for the General Public Re: Limited Permission for Peaceful Protest Activity Policy, from David J. Buck, Commander (Oct. 23, 2008), App. 57–58. The Base commander has enacted several restrictions to control the protest area, including reserving the authority "for any reason" to withdraw permission to protest and "retain[ing] authority and control over who may access the installation, including access to roadway easements for purposes other than traversing by vehicle through the installation." *Ibid.* A public advisory explains other rules for the protest area: Demonstrations "must be coordinated and scheduled with [B]ase Public Affairs and [Base] Security Forces at least two (2) weeks in advance"; "[a]nyone failing to vacate installation property upon advisement from Security Forces will be cited for trespass pursuant to [18 U. S. C. § 1382]"; and "[a]ctivities other than peaceful protests in this area are not permitted and are specifically prohibited." U. S. Air Force Fact Sheet, Protest Advisory, App. 52–53.

The advisory states, consistent with federal regulations, that anyone who fails to adhere to these policies may "receive an official letter barring you from entering Vandenberg." *Id.*, at 55; see also 32 CFR § 809a.5 ("Under the authority of 50 U. S. C. [§] 797, installation commanders may deny access to the installation through the use of a barment order"). And for any person who is "currently barred from Vandenberg AFB, there is no exception to the barment permitting you to attend peaceful protest activity on Vandenberg AFB property. If you are barred and attend a protest

or are otherwise found on base, you will be cited and detained for a trespass violation due to the non-adherence of the barment order." Protest Advisory, App. 54.

B

John Dennis Apel is an antiwar activist who demonstrates at Vandenberg. In March 2003, Apel trespassed beyond the designated protest area and threw blood on a sign for the Base. He was convicted for these actions, was sentenced to two months' imprisonment, and was barred from the Base for three years. In May 2007, Apel returned to Vandenberg to protest. When he trespassed again and was convicted, he received another order barring him from Vandenberg, this time permanently, unless he followed specified procedures "to modify or revoke" the order. Memorandum for John D. Apel Re: Barment Order (Oct. 22, 2007), App. 63–65. The only exception to the barment was limited permission from the Base commander for Apel to "'traverse', meaning to travel . . . on [Highway] 1 and . . . on [Highway] 246 . . . . You are not authorized to deviate from these paved roadways onto [Vandenberg] property." *Id.*, at 64. The order informed Apel that if he reentered Vandenberg in violation of the order, he would "be subject to detention by Security Forces personnel and prosecution by civilian authorities for a violation of [18 U. S. C. § 1382]." *Ibid.*

Apel ignored the commander's order and reentered Vandenberg several times during 2008 and 2009. That led the Base commander to serve Apel with an updated order, which informed him:

> "You continue to refuse to adhere to the rules and guidelines that have been put in place by me to protect and preserve order and to safeguard the persons and property under my jurisdiction by failing to remain in the area approved by me for peaceful demonstrations pursuant to [50] U. S. C. § 797 and 32 C. F. R. § 809a.0–[809]a.11. You cannot be expected or trusted to abide

> by the protest guidance rules based upon this behavior. I consider your presence on this installation to be a risk and detrimental to my responsibility to protect and preserve order and to safeguard the persons and property under my jurisdiction. You are again ordered not to enter onto [Vandenberg] property, as provided in the October 22, 2007 order. The content and basis of that order is hereby incorporated by reference herein, EXCEPT that your barment will be for a period of three (3) years from the date of this supplemental letter." Memorandum for John D. Apel Re: Barment Order Dated Oct. 22, 2007 (served Jan. 31, 2010), App. 59, 60.

Apel ignored this barment order too, and on three occasions in 2010 he reentered Vandenberg to protest in the designated area. Each time Vandenberg security personnel reminded him of the barment order and instructed him to leave. Each time Apel refused. He was cited for violating § 1382 and escorted off Base property.

A Magistrate Judge convicted Apel and ordered him to pay a total of $355 in fines and fees. Apel appealed to the Federal District Court for the Central District of California. The District Court rejected Apel's defense that § 1382 does not apply to the designated protest area, holding that the military "has a sufficient possessory interest and exercises sufficient control over" the area. App. to Pet. for Cert. 14a. The court also concluded that Apel's conviction would not violate the First Amendment. *Id.*, at 13a.

The United States Court of Appeals for the Ninth Circuit reversed, holding that the statute does not apply. Based on Circuit precedent, the Ninth Circuit interpreted § 1382 to require the Government to prove that it has "the exclusive right of possession of the area on which the trespass allegedly occurred." 676 F. 3d 1202, 1203 (2012) (citing *United States* v. *Parker*, 651 F. 3d 1180 (CA9 2011)). The court found that the easement through Vandenberg deprived the Government of exclusive possession of the roadway, so it con-

cluded that § 1382 does not cover the portion of the Base where Apel's protest occurred.

We granted certiorari, 569 U. S. 1017 (2013), and now vacate the judgment.

II

Section 1382 provides in full:

> "Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or
>
> "Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof—
>
> "Shall be fined under this title or imprisoned not more than six months, or both."

Apel does not dispute that he was "found within" the lawful boundaries of Vandenberg, "within the jurisdiction of the United States," after having been "ordered not to reenter" by the Base commander. § 1382. And certainly Vandenberg would naturally be described as a "military installation": It is an Air Force base, which a military commander has closed to the public (with limited exceptions), located on land owned by the United States and under the jurisdiction of the Air Force, where military personnel conduct sensitive missile operations.

Against this straightforward interpretation, Apel insists that § 1382 applies only where the military exercises *exclusive* possession and control, which, he contends, does not include land subject to a roadway easement. Apel further argues that the fence enclosing Vandenberg's operational facilities marks the *real* boundary of the Base and that Vandenberg's commander lacks authority to control the rest, or

at least the designated protest area. We take his arguments in turn.

A

Apel asserts that the Ninth Circuit's exclusive possession and control requirement "derives directly from the text of § 1382." Brief for Respondent 23. It does not. Section 1382 is written broadly to apply to many different kinds of military places: a "reservation, post, fort, arsenal, yard, station, or installation." Nothing in the text defines those places in terms of the access granted to the public or the nature of the Government's possessory interest. See *United States* v. *Albertini*, 472 U. S. 675, 682 (1985) ("The language of the statute does not limit § 1382 to military bases where access is restricted").

Apel contends that the listed military places have historically been defined as land withdrawn from public use. Not so. Historical sources are replete with references to military "forts" and "posts" that provided services to civilians, and were open for access by them. See, *e. g.*, R. Wooster, Soldiers, Sutlers, and Settlers 64 (1987) ("The frontier forts of Texas were not simply army bases occupied solely by military personnel. They were often bustling communities that attracted merchants, laborers, settlers, and dependents"); Davis, The Sutler at Fort Bridger, 2 Western Hist. Q. 37, 40–41 (Jan. 1971) (describing a 19th-century post in southwestern present Wyoming which included a "sutler," a civilian merchant who set up shop inside the fort and sold wares both to soldiers and to civilians from outside the base).

The common feature of the places described in § 1382 is not that they are used exclusively by the military, but that they have defined boundaries and are subject to the command authority of a military officer. That makes sense, because the Solicitor General has informed us that a military commander's authority is frequently defined by the boundaries of a particular place: When the Department of Defense establishes a base, military commanders assign a military

unit to the base, and the commanding officer of the unit becomes the commander of the base. Tr. of Oral Arg. 6–7.

Apel responds by invoking our decision in *United States* v. *Phisterer*, 94 U. S. 219 (1877), which held that the term "military station" (in a different statute) did not include a soldier's off-base home. But *Phisterer* only confirms our conclusion that § 1382 does not require exclusive use, possession, or control. For there we interpreted "military station" to mean "a place where troops are assembled, where military stores, animate or inanimate, are kept or distributed, where military duty is performed or military protection afforded,—where something, in short, more or less closely connected with arms or war is kept or is to be done." *Id.*, at 222. To describe a place as "more or less closely connected" with military activities hardly requires that the military hold an exclusive right to the property. Rather, "military duty" and "military protection" are synonymous with the exercise of *military jurisdiction*. And that, not coincidentally, is precisely how the term "military installation" is used elsewhere in federal law. See, *e. g.*, 10 U. S. C. § 2687(g)(1) (defining "military installation" as a "base . . . or other activity under the jurisdiction of the Department of Defense"); § 2801(c)(4) (defining "military installation" as a "base . . . or other activity under the jurisdiction of the Secretary of a military department"); 32 CFR § 809a.0 ("This part prescribes the commanders' authority for enforcing order within or near Air Force installations under their jurisdiction and controlling entry to those installations").

Apel also relies on the fact that some Executive Branch documents, including the United States Attorneys' Manual and opinions of the Air Force Judge Advocate General, have said that § 1382 requires exclusive possession. Brief for Respondent 44–47. So they have, and that is a point in his favor. But those opinions are not intended to be binding. See Dept. of Justice, United States Attorneys' Manual § 1–1.100 (2009) ("The Manual provides only internal Depart-

ment of Justice guidance. It is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal"); 2 Civil Law Opinions of the Judge Advocate General, United States Air Force 1978–1983 (Preface) (opinions of the Judge Advocate General "are good starting points but should not be cited as precedence [*sic*] without first verifying the validity of the conclusions by independent research"). Their views may reflect overly cautious legal advice based on division in the lower courts. Or they may reflect legal error. Either way, we have never held that the Government's reading of a criminal statute is entitled to any deference. See *Crandon* v. *United States*, 494 U. S. 152, 177 (1990) (SCALIA, J., concurring in judgment).

Today, as throughout our Nation's history, there is significant variation in the ownership status of U. S. military sites around the world. Some are owned in fee, others are leased. Some are routinely open to the public, others are open for specific occasions or purposes, and no public access whatsoever is permitted on others. Many, including such well-known places as the Washington Navy Yard and the United States Air Force Academy, have roads running through them that are used freely by the public. Nothing in § 1382 or our history suggests that the statute does not apply to a military base under the command of the Air Force, merely because the Government has conveyed a limited right to travel through a portion of the base or to assemble in a particular area.

B

Section 1382 is most naturally read to apply to places with a defined boundary under the command of a military officer. Apel argues, however, that Vandenberg's commander has no authority on the highways running through the Base or, apparently, in the designated protest area. His arguments more or less reduce to two contentions: that the highways and protest area lie "outside the entrance to [a] closed mili-

tary installation[ ]," Brief for Respondent 22, and that they are "uncontrolled" spaces where "no military operations are performed," *id.*, at 23. Neither contention is sound.

First, to say that the highway and protest area are "outside" the Vandenberg installation is not a legal argument; it simply assumes the conclusion. Perhaps recognizing as much, Apel tacks: He suggests that because Vandenberg's operational facilities are surrounded by a fence and guarded by a security checkpoint, the Government has determined that it does not control the rest of the Base. The problem with this argument is that the United States has placed the *entire* Vandenberg property under the administration of the Air Force, which has defined that property as an Air Force base and designated the Base commander to exercise jurisdiction. Federal law makes the commander responsible "for the protection or security of" "property subject to the jurisdiction, administration, or in the custody of the Department of Defense." 50 U. S. C. §§ 797(a)(2), (4); see also 32 CFR § 809a.2(a) ("Air Force installation commanders are responsible for protecting personnel and property under their jurisdiction"). And pursuant to that authority, the Base commander has issued an order closing the entire base to the public. Buck Memorandum Re: Closed Base, App. 51; see also 32 CFR § 809a.3 ("any directive issued by the commander of a military installation or facility, which includes the parameters for authorized entry to or exit from a military installation, is legally enforceable against all persons"). The fact that the Air Force chooses to secure a portion of the Base more closely—be it with a fence, a checkpoint, or a painted green line—does not alter the boundaries of the Base or diminish the jurisdiction of the military commander.

As for Apel's claim that the protest area specifically is uncontrolled, the record is conclusively to the contrary. The Base commander "at all times has retained authority and control over who may access the installation," including the protest area. Buck Memorandum Re: Protest Activity, App.

58. He has enacted rules to restrict the manner of protests in the designated area. Protest Advisory, App. 53. In particular, he requires two weeks' notice to schedule a protest and prohibits the distribution of pamphlets or leaflets. *Id.*, at 52–53. The Base commander has also publicly stated that persons who are barred from Vandenberg—for whatever reason—may not come onto the Base to protest. *Id.*, at 54. And the District Court found, after hearing testimony, that "the Government exercises substantial control over the designated protest area, including, for example, patrolling the area." App. to Pet. for Cert. 14a–15a. Apel has never disputed these facts.

Instead Apel tells us that, by granting an easement, the military has "relinquished its right to exclude civilians from Highway 1," Brief for Respondent 36, and that the easement does not "permit[ ]" use by the military, *id.*, at 43. But the easement itself specifically reserves to Vandenberg's commander the authority to restrict access to the entire Base, including Highway 1, when necessary "to properly protect the interests of the United States," and likewise "reserves to [the United States] rights-of-way for all purposes." Easement, App. 36. We simply do not understand how Apel can claim that "[n]othing in the easement contemplates, or even permits, military use or occupation; it provides for exclusive civil use and occupation." Brief for Respondent 43. Moreover, the Base commander, in an exercise of his command authority, has notified the public that use of the roads is "limited to . . . vehicular travel activity through the base," which does not include Apel's protest activity. See Buck Memorandum Re: Closed Base, App. 51.

Apel likewise offers no support for his contention that military functions do not occur on the easement highways. The Government has referred us to instances when the commander of Vandenberg has closed the highways to the public for security purposes or when conducting a military launch. Reply Brief 12, and n. 5; Tr. of Oral Arg. 8–9. In any event,

there is no indication that Congress intended § 1382 to require base commanders to make continuous, uninterrupted use of a place within their jurisdiction, lest they lose authority to exclude individuals who have vandalized military property and been determined to pose a threat to the order and security of the base.

In sum, we decline Apel's invitation to require civilian judges to examine U. S. military sites around the world, parcel by parcel, to determine which have roads, which have fences, and which have a sufficiently important, persistent military purpose. The use-it-or-lose-it rule that Apel proposes would frustrate the administration of military facilities and raise difficult questions for judges, who are not expert in military operations. And it would discourage commanders from opening portions of their bases for the convenience of the public. We think a much better reading of § 1382 is that it reaches all property within the defined boundaries of a military place that is under the command of a military officer.

III

Much of the rest of Apel's brief is devoted to arguing that § 1382 would be unconstitutional as applied to him on this Base. But the Court of Appeals never reached Apel's constitutional arguments, and we decline to do so in the first instance. Apel also attempts to repackage his First Amendment objections as a statutory interpretation argument based on constitutional avoidance. See Brief for Respondent 54 ("the statute should be interpreted . . . not to apply to peaceful protests on a public road outside of a closed military base over which an easement has been granted and that has been declared a protest zone"). But we do not "interpret" statutes by gerrymandering them with a list of exceptions that happen to describe a party's case. "The canon [of constitutional avoidance] is not a method of adjudicating constitutional questions by other means." *Clark* v.

Martinez, 543 U. S. 371, 381 (2005). Whether § 1382 is unconstitutional as applied is a question we need not address.

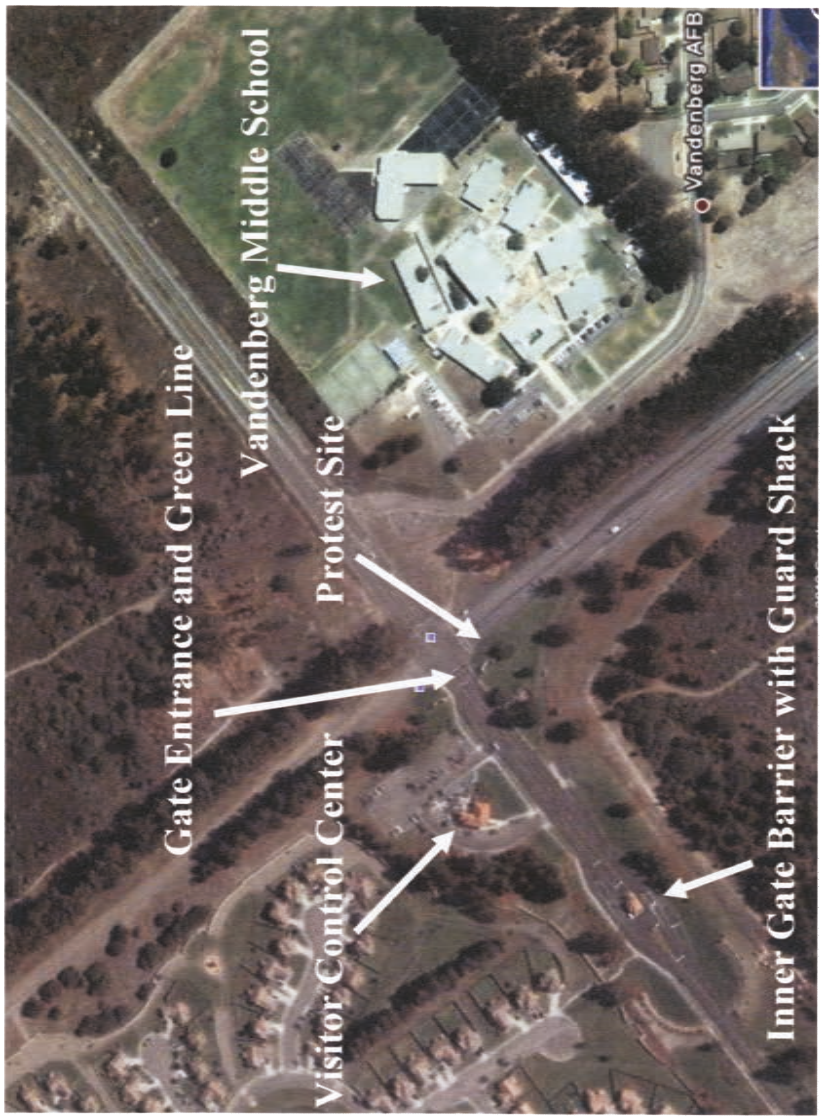
* * *

Where a place with a defined boundary is under the administration of a military department, the limits of the "military installation" for purposes of § 1382 are coterminous with the commanding officer's area of responsibility. Those limits do not change when the commander invites the public to use a portion of the base for a road, a school, a bus stop, or a protest area, especially when the commander reserves authority to protect military property by, among other things, excluding vandals and trespassers.

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.

[Appendix to opinion of the Court follows this page.]



Santa Maria-Highway 1 Gate to Vandenberg Air Force Base

JUSTICE GINSBURG, with whom JUSTICE SOTOMAYOR joins, concurring.

I agree with the Court's reading of 18 U. S. C. § 1382: The military's choice "to secure a portion of the Base more closely—be it with a fence, a checkpoint, or a painted green line—does not alter the boundaries of the Base or diminish the jurisdiction of the military commander." *Ante*, at 370. But a key inquiry remains, for the fence, checkpoint, and painted line, while they do not alter the Base boundaries, may alter the First Amendment calculus.

When the Government permits the public onto part of its property, in either a traditional or designated public forum, its "ability to permissibly restrict expressive conduct is very limited." *United States* v. *Grace*, 461 U. S. 171, 177 (1983). In such venues, the Government may enforce "reasonable time, place, and manner regulations," but those regulations must be "content-neutral [and] narrowly tailored to serve a significant government interest." *Ibid.* (internal quotation marks omitted).

The stated interest of the Air Force in keeping Apel out of the area designated for peaceful protest lies in ensuring Base security. Brief for United States 22–26. See also Reply Brief 21–22. That interest, however, must be assessed in light of the general public's (including Apel's) permission to traverse, at any hour of the day or night, the highway located a few feet from the designated protest area. See Appendix to opinion of the Court, *ante* (displaying maps of the area). The Air Force also permits open access to the middle school, bus stop, and visitors' center, all situated in close proximity to the protest area. See *ante*, at 362–363.

As the Air Force has exhibited no "special interes[t] in who walks [or] talks" in these places, *Flower* v. *United States*, 407 U. S. 197, 198 (1972) (*per curiam*), it is questionable whether Apel's ouster from the protest area can withstand constitutional review. The Court has properly reserved that issue

for consideration on remand. *Ante*, at 372–373. In accord with that reservation, I join the Court's opinion.

JUSTICE ALITO, concurring.

The Ninth Circuit did not rule on the constitutionality of 18 U. S. C. § 1382, and I see no reason to express any view on that question at this time. See *FCC* v. *Fox Television Stations, Inc.*, 556 U. S. 502, 529 (2009). "This Court . . . is one of final review, 'not of first view.' " *Ibid.* (quoting *Cutter* v. *Wilkinson*, 544 U. S. 709, 719, n. 7 (2005)). Our failure to address this question should not be interpreted to signify either agreement or disagreement with the arguments outlined in JUSTICE GINSBURG's concurrence.

Syllabus

CHADBOURNE & PARKE LLP *v.* TROICE ET AL.

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

No. 12–79. Argued October 7, 2013—Decided February 26, 2014*

The Securities Litigation Uniform Standards Act of 1998 (Litigation Act or Act) forbids the bringing of large securities class actions "based upon the statutory or common law of any State" in which the plaintiffs allege "a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security," 15 U. S. C. § 78bb(f)(1). The Act defines "covered security" to include, as relevant here, only securities traded on a national exchange. §§ 78bb(f)(5)(E), 77r(b)(1).

Four sets of plaintiffs, respondents here, filed civil class actions under state law, contending that the defendants, petitioners here, helped Allen Stanford and his companies perpetrate a Ponzi scheme by falsely representing that uncovered securities (certificates of deposit in Stanford International Bank) that plaintiffs were purchasing were backed by covered securities. The District Court dismissed each case under the Litigation Act. Although the certificates of deposit were not covered securities, the court concluded, the Bank's misrepresentation that its holdings in covered securities made investments in its uncovered securities more secure provided the requisite "connection" (under the Litigation Act) between the plaintiffs' state-law actions and transactions in covered securities. The Fifth Circuit reversed, concluding that the falsehoods about the Bank's holdings in covered securities were too tangentially related to the fraud to trigger the Litigation Act.

Held: The Litigation Act does not preclude the plaintiffs' state-law class actions. Pp. 386–397.

(a) Several factors support the conclusion that the scope of § 78bb(f)(1)(A)'s phrase "misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security" does not extend further than misrepresentations that are material to the decision by one or more individuals (other than the fraudster) to purchase or sell a covered security. First, this interpretation is consistent with the Act's basic focus on transactions in covered, not uncovered, securities. Second, the interpretation is supported by the Act's language. The

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*Together with No. 12–86, *Willis of Colorado Inc. et al.* v. *Troice et al.*, and No. 12–88, *Proskauer Rose LLP* v. *Troice et al.*, also on certiorari to the same court.

phrase "material fact in connection with the purchase or sale" suggests a connection that matters. And a connection matters where the misrepresentation makes a significant difference to someone's decision to purchase or to sell a covered security, not an uncovered one, something about which the Act expresses no concern. See *Matrixx Initiatives, Inc.* v. *Siracusano*, 563 U. S. 27, 37–40. Further, for the connection to matter, the "someone" making the decision to purchase or sell a covered security must be a party other than the fraudster. Third, the securities cases in which this Court has found a fraud to be "in connection with" a purchase or sale of a security, under both the Litigation Act and § 10(b) of the Securities Exchange Act of 1934 (which also uses the "in connection with" phrase), have involved victims who took, who tried to take, who divested themselves of, who tried to divest themselves of, or who maintained an ownership interest in financial instruments that fall within the relevant statutory definition. See, *e. g.*, *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit*, 547 U. S. 71, 77. Fourth, this Court reads the Litigation Act in light of and consistent with the language and purpose of the underlying regulatory statutes, the Securities Exchange Act of 1934 and the Securities Act of 1933, which refer to persons engaged in securities transactions that lead to the taking or dissolving of ownership positions, and which make it illegal to deceive a person when he or she is doing so. The basic purpose of the 1934 and 1933 regulatory statutes is to protect investor confidence in the securities markets. Nothing in those statutes, or in the Litigation Act, suggests their object is to protect persons whose connection with the statutorily defined securities is more remote than buying or selling. Fifth, a broader interpretation of the necessary statutory "connection" would interfere with state efforts to provide remedies for victims of ordinary state-law frauds, despite the fact that the Litigation Act purposefully seeks to avoid such results by maintaining States' legal authority over matters that are primarily of state concern, see, *e. g.*, § 78bb(f)(4). Pp. 387–392.

(b) Petitioners and the Government make two important, but unavailing, counterarguments. First, they point to this Court's suggestions that the phrase "in connection with" should be given a broad interpretation. But every case in which this Court interpreted the phrase to cover a fraud involved a false statement (or the like) that was "material" to another individual's decision to "purchase or s[ell]" a statutorily defined "security" or "covered security," *e. g.*, *Dabit*, *supra*, at 75–77, and where the transaction was by or on behalf of someone other than the fraudster. Second, the Government warns that a narrow interpretation would curtail the Securities and Exchange Commission's enforcement powers under § 10(b) of the Securities Exchange Act, which uses the

Syllabus

same "in connection with the purchase or sale" phrase. To the contrary, this Court's interpretation is perfectly consistent with past SEC practice. The authority of the SEC and the Department of Justice extends to all "securities" under § 10(b), not just to those traded on national exchanges. 15 U. S. C. § 78c(a)(10). The SEC has accordingly brought successful enforcement actions against Stanford and his associates, based on the Bank's fraudulent sales of certificates of deposit—products that are "securities" even if not "covered securities." Neither the Government nor the dissent has pointed to an example of any prior SEC enforcement action that the instant holding would have prevented the SEC from bringing. Pp. 392–395.

(c) Respondents' complaints do not allege, for Litigation Act purposes, misrepresentations or omissions of material fact "in connection with" the "purchase or sale of a covered security." At most, they allege misrepresentations about the Bank's ownership of covered securities. But the Bank is the fraudster, not the fraudster's victim; nor is it some other person transacting in covered securities. Thus, there is not the necessary "connection" between the materiality of the misstatements and the statutorily required "purchase or sale of a covered security." In addition, while the District Court found that one plaintiff acquired Bank certificates with proceeds from the sale of covered securities, the plaintiffs did not allege that the sale of these covered securities constituted any part of the fraudulent scheme or that Stanford or his associates were interested in how the plaintiffs obtained the funds to purchase the certificates. Thus, those sales were only incidental to the fraud. Pp. 395–397.

675 F. 3d 503, affirmed.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, GINSBURG, SOTOMAYOR, and KAGAN, JJ., joined. THOMAS, J., filed a concurring opinion, *post*, p. 397. KENNEDY, J., filed a dissenting opinion, in which ALITO, J., joined, *post*, p. 398.

Paul D. Clement argued the cause for petitioners in all cases. With him on the briefs for petitioners in No. 12–86 were *Jeffrey M. Harris*, *J. Gordon Cooney, Jr.*, *Allyson N. Ho*, and *Bradley W. Foster*. *Walter Dellinger*, *Jonathan D. Hacker*, *Anton Metlitsky*, *Daniel J. Beller*, and *Daniel J. Leffell* filed briefs for petitioner in No. 12–79. *James P. Rouhandeh*, *Daniel J. Schwartz*, and *Richard A. Cooper* filed briefs for petitioner in No. 12–88.

Elaine J. Goldenberg argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Stewart*, *Anne K. Small*, *Michael A. Conley*, *Jacob H. Stillman*, and *Michael L. Post.*

Thomas C. Goldstein argued the cause for respondents in all cases. With him on the brief were *Tejinder Singh*, *Phillip W. Preis*, *Charles M. Gordon, Jr.*, *Edward C. Snyder*, *P. Michael Jung*, *David N. Kitner*, and *Judith R. Blakeway.*†

JUSTICE BREYER delivered the opinion of the Court.

The Securities Litigation Uniform Standards Act of 1998 (which we shall refer to as the Litigation Act or Act) forbids the bringing of large securities class actions based upon violations of state law. It says that plaintiffs may not maintain a class action "based upon the statutory or common law of any State" in which the plaintiffs allege "a misrepresentation or omission of a material fact *in connection with the purchase or sale of a covered security.*" 15 U. S. C. § 78bb(f)(1) (emphasis added). The Act defines "class actions" as those involving more than 50 members. See § 78bb(f)(5). It defines "covered security" narrowly to include only securi-

†Briefs of *amici curiae* urging reversal in all cases were filed for Breazeale, Sachse & Wilson, LLP, by *Lisa S. Blatt* and *Christopher S. Rhee*; for DRI–The Voice of the Defense Bar by *Mary Massaron Ross*, *Linda T. Coberly*, *Gene C. Schaerr*, and *Steffen N. Johnson*; and for the Securities Industry and Financial Markets Association by *Richard D. Bernstein* and *Kevin M. Carroll.*

Charles Lee Eisen, *Jeffrey B. Maletta*, and *Nicholas G. Terris* filed a brief for Causeway Capital Management LLC as *amicus curiae* urging reversal in No. 12–86.

Briefs of *amici curiae* urging affirmance in all cases were filed for the Court-Appointed Receiver et al. by *Richard B. Phillips, Jr.*, *Michael W. Stockham*, and *John J. Little*; for the National Association of Bankruptcy Trustees by *Paul Steven Singerman*; for Occupy the SEC by *Akshat Tewary*; for the Public Investors Arbitration Bar Association et al. by *Royal B. Lea III*, *Jay E. Sushelsky*, and *Lawrence R. Velvel*; and for Sixteen Law Professors by *Richard A. Lockridge* and *Gregg M. Fishbein.*

ties traded on a national exchange (or, here irrelevant, those issued by investment companies). §§ 78bb(f)(5)(E), 77r(b)(1)–(2).

The question before us is whether the Litigation Act encompasses a class action in which the plaintiffs allege (1) that they "purchase[d]" *uncovered* securities (certificates of deposit that are *not* traded on any national exchange), but (2) that the defendants falsely told the victims that the *uncovered* securities were backed by *covered* securities. We note that the plaintiffs do not allege that the defendants' misrepresentations led anyone to buy or to sell (or to maintain positions in) *covered* securities. Under these circumstances, we conclude the Act does not apply.

In light of the dissent's characterization of our holding, *post*, at 407–409 (opinion of KENNEDY, J.)—which we believe is incorrect—we specify at the outset that this holding does *not* limit the Federal Government's authority to prosecute "frauds like the one here." *Post*, at 407. The Federal Government *has* in fact brought successful prosecutions against the fraudsters at the heart of this litigation, see *infra*, at 384–385, and we fail to understand the dissent's repeated suggestions to the contrary, *post*, at 400, 401, 407, 408–409, 413. Rather, as we shall explain, we believe the basic consequence of our holding is that, without limiting the Federal Government's prosecution power in any significant way, it will permit victims of this (and similar) frauds to recover damages under state law. See *infra*, at 394–395. Under the dissent's approach, they would have no such ability.

I

A

The relevant statutory framework has four parts:

(1) Section 10(b) of the underlying regulatory statute, the Securities Exchange Act of 1934. 48 Stat. 891, as amended, 15 U. S. C. § 78j (2012 ed.). This well-known statutory provision forbids the "use" or "employ[ment]" of "any manipulative or deceptive device or contrivance"

"in connection with the purchase or sale of any security." § 78j(b).

Securities and Exchange Commission (SEC) Rule 10b–5 similarly forbids the use of any "device, scheme, or artifice to defraud" (including the making of "any untrue statement of a material fact" or any similar "omi[ssion]") "in connection with the purchase or sale of any security." 17 CFR § 240.10b–5 (2013).

For purposes of these provisions, the Securities Exchange Act defines "security" *broadly* to include not just things traded on national exchanges, but also "any note, stock, treasury stock, security future, security-based swap, bond, debenture . . . [or] certificate of deposit for a security." 15 U. S. C. § 78c(a)(10). See also §§ 77b(a)(1), 80a–2(a)(36), 80b–2(a)(18) (providing virtually identical definitions of "security" for the Securities Act of 1933, the Investment Company Act of 1940, and the Investment Advisers Act of 1940).

(2) A statute-based private right of action. The Court has read § 10(b) and Rule 10b–5 as providing injured persons with a private right of action to sue for damages suffered through those provisions' violation. See, *e. g.*, *Blue Chip Stamps* v. *Manor Drug Stores*, 421 U. S. 723, 730 (1975).

The scope of the private right of action is more limited than the scope of the statutes upon which it is based. See *Stoneridge Investment Partners, LLC* v. *Scientific-Atlanta, Inc.*, 552 U. S. 148, 153, 155, 166 (2008) (private right does not cover suits against "secondary actors" who had no "role in preparing or disseminating" a stock issuer's fraudulent "financial statements"); *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.*, 511 U. S. 164, 179 (1994) (private right does not extend to actions against "aiders and abettors" of securities fraud); *Blue Chip Stamps*, *supra*, at 737 (private right extends only to purchasers and sellers, not to holders, of securities).

(3) The Private Securities Litigation Reform Act of 1995 (PSLRA). 109 Stat. 737, 15 U. S. C. §§ 77z–1, 78u–4.

This law imposes procedural and substantive limitations upon the scope of the private right of action available under § 10(b) and Rule 10b–5. It requires plaintiffs to meet heightened pleading standards. It permits defendants to obtain automatic stays of discovery. It limits recoverable damages and attorney's fees. And it creates a new "safe harbor" for forward-looking statements. See §§ 78u–4, 78u–5.

(4) The Securities Litigation Uniform Standards Act. 112 Stat. 3227, 15 U. S. C. § 78bb(f)(1)(A). As we said at the outset, this 1998 law forbids any

> "covered class action based upon the statutory or common law of any State . . . by any private party alleging—
>
> "(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or
>
> "(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security." §§ 78bb(f)(1)(A)–(B).

The law defines "covered security" narrowly. It is a security that "satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933." § 78bb(f)(5)(E). And the relevant paragraphs of § 18(b) of the 1933 Act define a "covered security" as "[a security] listed, or authorized for listing, on a national securities exchange," § 77r(b)(1) (or, though not relevant here, as a security issued by an "investment company," § 77r(b)(2)). The Litigation Act also specifies that a "covered security" must be listed or authorized for listing on a national exchange "at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred." § 78bb(f)(5)(E).

The Litigation Act sets forth exceptions. It does not apply to class actions with fewer than 51 "persons or prospective class members." § 78bb(f)(5)(B). It does not

apply to actions brought on behalf of a State itself. § 78bb(f)(3)(B)(i). It does not apply to class actions based on the law "of the State in which the issuer is incorporated." § 78bb(f)(3)(A)(i). And it reserves the authority of state securities commissions "to investigate and bring enforcement actions." § 78bb(f)(4).

We are here primarily interested in the Litigation Act's phrase "misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security." § 78bb(f)(1)(A). Unless this phrase applies to the class actions before us, the plaintiffs may maintain their state-law-based class actions, and they may do so either in federal or state court. Otherwise, their class actions are precluded altogether. See § 78bb(f)(2) (providing for the removal from state to federal court of class actions that meet the specifications of paragraph 1, and for the dismissal of such suits by the district court).

B

1

The plaintiffs in these actions (respondents here) say that Allen Stanford and several of his companies ran a multibillion dollar Ponzi scheme. Essentially, Stanford and his companies sold the plaintiffs certificates of deposit in Stanford International Bank (or Bank). Those certificates "were debt assets that promised a fixed rate of return." *Roland* v. *Green*, 675 F. 3d 503, 522 (CA5 2012). The plaintiffs expected that Stanford International Bank would use the money it received to buy highly lucrative assets. But instead, Stanford and his associates used the money provided by new investors to repay old investors, to finance an elaborate lifestyle, and to finance speculative real estate ventures.

The Department of Justice brought related criminal charges against Allen Stanford. A jury convicted Stanford of mail fraud, wire fraud, conspiracy to commit money laundering, and obstruction of an SEC investigation. Stanford was sentenced to prison and required to forfeit $6 billion.

The SEC, noting that the Bank certificates of deposit fell within the 1934 Securities Exchange Act's broad definition of "security," filed a § 10(b) civil case against Allen Stanford, the Stanford International Bank, and related Stanford companies and associates. The SEC won the civil action, and the court imposed a civil penalty of $6 billion.

2

The plaintiffs in each of the four civil class actions are private investors who bought the Bank's certificates of deposit. Two groups of plaintiffs filed their actions in Louisiana state court against firms and individuals who helped sell the Bank's certificates by working as "investment advisers" affiliated with Stanford, or who provided Stanford-related companies with trust, insurance, accounting, or reporting services. (The defendants included a respondent here, SEI Investments Company.) The plaintiffs claimed that the defendants helped the Bank perpetrate the fraud, thereby violating Louisiana state law.

Two other groups of plaintiffs filed their actions in federal court for the Northern District of Texas. One group sued Willis of Colorado (and related Willis companies) and Bowen, Miclette & Britt, two insurance brokers; the other group sued Proskauer Rose and Chadbourne & Parke, two law firms. Both groups claimed that the defendants helped the Bank (and Allen Stanford) perpetrate the fraud or conceal it from regulators, thereby violating Texas securities law.

The Louisiana state-court defendants removed their cases to federal court, and the Judicial Panel on Multi-District Litigation moved the Louisiana cases to the Northern District of Texas. A single federal judge heard all four class actions.

The defendants in each of the cases moved to dismiss the complaints. The District Court concluded that the Litigation Act required dismissal. The court recognized that the certificates of deposit themselves were not "covered securities" under the Litigation Act, for they were not "'traded nationally [or] listed on a regulated national exchange.'"

App. to Pet. for Cert. in No. 12–86, p. 62. But each complaint in one way or another alleged that the fraud included misrepresentations that the Bank maintained significant holdings in "'highly marketable securities issued by stable governments [and] strong multinational companies,'" and that the Bank's ownership of these "covered" securities made investments in the uncovered certificates more secure. *Id.*, at 66. The court concluded that this circumstance provided the requisite statutory "connection" between (1) the plaintiffs' state-law fraud claims and (2) "transactions in covered securities." *Id.*, at 64, 66–67. Hence, the court dismissed the class actions under the Litigation Act. *Id.*, at 75. See also 675 F. 3d, at 511.

All four sets of plaintiffs appealed. The Fifth Circuit reversed. It agreed with the District Court that the complaints described misrepresentations about the Bank's investments in nationally traded securities. Still, the "heart, crux, and gravamen of" the "allegedly fraudulent scheme was representing . . . that the [uncovered] CDs were a 'safe and secure' investment that was preferable to other investments for many reasons." *Id.*, at 522. The court held that the falsehoods about the Bank's holdings in covered securities were too "'tangentially related'" to the "crux" of the fraud to trigger the Litigation Act. *Id.*, at 520, 522 (quoting *Madden* v. *Cowen & Co.*, 576 F. 3d 957, 965–966 (CA9 2009)). "That the CDs were marketed with some vague references to [the Bank's] portfolio containing instruments that might be [covered by the Litigation Act] seems tangential to the schemes," to the point where the complaints fall outside the scope of that Act. 675 F. 3d, at 522.

Defendants in the four class actions sought certiorari. We granted their petitions.

II

The question before us concerns the scope of the Litigation Act's phrase "misrepresentation or omission of a material fact in connection with the purchase or sale of a covered

security." § 78bb(f)(1)(A). How broad is that scope? Does it extend further than misrepresentations that are material to the purchase or sale of a covered security?

In our view, the scope of this language does not extend further. To put the matter more specifically: A fraudulent misrepresentation or omission is not made "in connection with" such a "purchase or sale of a covered security" unless it is material to a decision by one or more individuals (other than the fraudster) to buy or to sell a "covered security." We add that in *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit*, 547 U. S. 71 (2006), we held that the Litigation Act precluded a suit where the plaintiffs alleged a "fraudulent manipulation of stock prices" that was material to and " 'coincide[d]' with" third-party securities transactions, while also inducing the plaintiffs to "hold their stocks long beyond the point when, had the truth been known, they would have sold." *Id.*, at 75, 85, 89 (citing *United States* v. *O'Hagan*, 521 U. S. 642, 651 (1997)). We do not here modify *Dabit*.

A

We reach this interpretation of the Litigation Act for several reasons. First, the Act focuses upon transactions in covered securities, not upon transactions in uncovered securities. An interpretation that insists upon a material connection with a transaction in a covered security is consistent with the Act's basic focus.

Second, a natural reading of the Act's language supports our interpretation. The language requires the dismissal of a state-law-based class action where a private party alleges a "misrepresentation or omission of a material fact" (or engages in other forms of deception, not relevant here) "in connection with the purchase or sale of a covered security." § 78bb(f)(1). The phrase "material fact in connection with the purchase or sale" suggests a connection that matters. And for present purposes, a connection matters where the misrepresentation makes a significant difference to someone's decision to purchase or to sell a covered security, not

to purchase or to sell an uncovered security, something about which the Act expresses no concern. See generally *Matrixx Initiatives, Inc.* v. *Siracusano*, 563 U. S. 27, 37–40 (2011) (a misrepresentation or omission is "material" if a reasonable investor would have considered the information significant when contemplating a statutorily relevant investment decision). Further, the "someone" making that decision to purchase or sell must be a party other than the fraudster. If the only party who decides to buy or sell a covered security as a result of a lie is the liar, that is not a "connection" that matters.

Third, prior case law supports our interpretation. As far as we are aware, every securities case in which this Court has found a fraud to be "in connection with" a purchase or sale of a security has involved victims who took, who tried to take, who divested themselves of, who tried to divest themselves of, or who maintained *an ownership interest* in financial instruments that fall within the relevant statutory definition. See, *e. g.*, *Dabit*, *supra*, at 77 (Litigation Act: victims were "holders" of covered securities that the defendant's fraud caused to become overvalued); *SEC* v. *Zandford*, 535 U. S. 813, 822 (2002) (§ 10(b): victims were "duped into believing" that the defendant would " 'invest' their assets in the stock market"); *Wharf (Holdings) Ltd.* v. *United Int'l Holdings, Inc.*, 532 U. S. 588, 592 (2001) (§ 10(b): victim purchased an oral option to buy 10% of a company's stock); *O'Hagan*, *supra*, at 655–656 (§ 10(b): victims were "members of the investing public" harmed by the defendant's "gain[ing of an] advantageous market position" through insider trading); *Superintendent of Ins. of N. Y.* v. *Bankers Life & Casualty Co.*, 404 U. S. 6, 10 (1971) (§ 10(b): victim was "injured as an investor" when the fraud deprived it of "compensation for the sale of its valuable block of securities"). We have found no Court case involving a fraud "in connection with" the purchase or sale of a statutorily defined security in which the victims did not fit one of these descriptions. And the dissent apparently has not either.

Although the dissent characterizes our approach as "new," *post*, at 400, and tries to describe several of our prior cases, such as *Zandford* or *Dabit*, in a different way, *post*, at 410–411, it cannot escape the fact that every case it cites involved a victim who took, tried to take, or maintained an ownership position in the statutorily relevant securities through "purchases" or "sales" induced by the fraud. *E. g.*, *Zandford*, *supra*, at 815, 820 (fraudster told customers he would "'conservatively invest' *their* money" in the stock market and made sales of "his *customer's* securities," but pocketed the proceeds (emphasis added)); *Dabit*, *supra*, at 76, 85, 89 (the "misrepresentations and manipulative tactics caused [the plaintiffs] to hold onto overvalued securities" while also inducing third parties to trade them); *In re Jett*, 82 S. E. C. Docket 1211, 1236–1237 (2004) (trader's scheme "greatly inflated the reporting trading profits" that his firm "used to determine . . . the amount of capital he was permitted to commit *on the firm's behalf*" (emphasis added)).

Fourth, we read the Litigation Act in light of and consistent with the underlying regulatory statutes, the Securities Exchange Act of 1934 and the Securities Act of 1933. The regulatory statutes refer to persons engaged in securities transactions that lead to the taking or dissolving of ownership positions. And they make it illegal to deceive a person when he or she is doing so. Section 5 of the 1933 Act, for example, makes it unlawful to "offer to sell or offer to buy . . . any security, unless a registration statement has been filed as to such security." 15 U. S. C. § 77e(c). Section 17 of the 1933 Act makes it unlawful "in the offer or sale of any securities . . . to employ any device, scheme, or artifice to defraud, or to obtain money or property by means of any untrue statement of a material fact." §§ 77q(a)(1)–(2). And § 10(b) of the 1934 Act makes it unlawful to "use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance." § 78j(b).

Not only language but also purpose suggests a statutory focus upon transactions involving the statutorily relevant securities. The basic purpose of the 1934 and 1933 regulatory statutes is "to insure honest securities markets and thereby promote investor confidence." See *O'Hagan*, 521 U. S., at 658. Nothing in the regulatory statutes suggests their object is to protect persons whose connection with the statutorily defined securities is more remote than words such as "buy," "sell," and the like, indicate. Nor does anything in the Litigation Act provide us with reasons for interpreting its similar language more broadly.

The dissent correctly points out that the federal securities laws have another purpose, beyond protecting investors. Namely, they also seek to protect securities *issuers*, as well as the investment advisers, accountants, and brokers who help them sell financial products, from abusive class-action lawsuits. *Post*, at 401. Both the PSLRA and the Litigation Act were enacted in service of that goal. By imposing heightened pleading standards, limiting damages, and preempting state-law suits where the claims pertained to covered securities, Congress sought to reduce frivolous suits and mitigate legal costs for firms and investment professionals that participate in the market for nationally traded securities.

We fail to see, however, how our decision today undermines that objective. The dissent worries our approach will "subject many persons and entities whose profession it is to give advice, counsel, and assistance in investing in the securities markets to complex and costly state-law litigation." *Ibid.* To the contrary, the *only* issuers, investment advisers, or accountants that today's decision will continue to subject to state-law liability are those who do not sell or participate in selling securities traded on U. S. national exchanges. We concede that this means a bank, chartered in Antigua and whose sole product is a fixed-rate debt instrument not traded on a U. S. exchange, will not be able to claim

the benefit of preclusion under the Litigation Act. But it is difficult to see why the federal securities laws would be—or should be—concerned with shielding such entities from lawsuits.

Fifth, to interpret the necessary statutory "connection" more broadly than we do here would interfere with state efforts to provide remedies for victims of ordinary state-law frauds. A broader interpretation would allow the Litigation Act to cover, and thereby to prohibit, a lawsuit brought by creditors of a small business that falsely represented it was creditworthy, in part because it owns or intends to own exchange-traded stock. It could prohibit a lawsuit brought by homeowners against a mortgage broker for lying about the interest rates on their mortgages—if, say, the broker (not the homeowners) later sold the mortgages to a bank which then securitized them in a pool and sold off pieces as "covered securities." Brief for Sixteen Law Professors as *Amici Curiae* 24.

The dissent all but admits this. Its proposed rule is that whenever "the purchase or sale of the securities [including by the fraudster] is what enables the fraud," the Litigation Act pre-empts the suit. *Post*, at 408. In other words, *any time* one person convinces another to loan him money, by pretending he owns nationally traded securities or will acquire them for himself in the future, the action constitutes federal securities fraud, is subject to federal enforcement, and is *also* precluded by the Litigation Act if it qualifies as a "covered class action" under § 78bb(f)(5)(B) (*e. g.*, involves more than 50 members). Leaving aside whether this would work a significant expansion of the scope of liability under the federal securities laws, it unquestionably would limit the scope of protection under state laws that seek to provide remedies to victims of garden-variety fraud.

The text of the Litigation Act reflects congressional care to avoid such results. Under numerous provisions, it purposefully maintains state legal authority, especially

over matters that are primarily of state concern. See §§ 78bb(f)(1)(A)–(B) (limiting preclusion to lawsuits involving "covered," *i. e.*, nationally traded, securities); § 78bb(f)(4) (providing that the "securities commission . . . of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions"); § 78bb(f)(3)(B) (preserving States' authority to bring suits of the kind forbidden to private class-action plaintiffs). See also 112 Stat. 3227 ("Congress finds that . . . it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators"). A broad interpretation of the Litigation Act works at cross-purposes with this state-oriented concern. Cf. *Zandford*, 535 U. S., at 820 (warning against "constru[ing]" the phrase "in connection with" "so broadly as to convert any common-law fraud that happens to involve securities into a violation of § 10(b)"); *Wharf (Holdings) Ltd.*, 532 U. S., at 596 (recognizing that "ordinary state breach-of-contract claims" are "actions that lie outside the [Securities Exchange] Act's basic objectives").

B

Petitioners and the Government make two important counterarguments. Petitioners point to statements we have made suggesting we should give the phrase "in connection with" a broad interpretation. In *Dabit*, for example, we said that the Court has consistently "espoused a broad interpretation" of "in connection with" in the context of § 10(b) and Rule 10b–5, and we added that the Litigation Act language similarly warranted a "broad construction." 547 U. S., at 85–86. In *Bankers Life*, we said that, if a deceptive practice "touch[es]" a securities transaction, it meets § 10(b)'s "in connection with" requirement, 404 U. S., at 12, and in *O'Hagan*, we said the fraud and the purchase or sale of a security must simply "coincide," 521 U. S., at 656. The idea, we explained in *Zandford*, is that the phrase "should be 'con-

strued not technically and restrictively, but flexibly to effectuate its remedial purposes.'" 535 U. S., at 819 (quoting *Affiliated Ute Citizens of Utah* v. *United States*, 406 U. S. 128, 151 (1972)).

Every one of these cases, however, concerned a false statement (or the like) that was "material" to another individual's decision to "purchase or s[ell]" a statutorily defined "security" or "covered security." *Dabit*, *supra*, at 75–77; *Zandford*, *supra*, at 822; *Wharf (Holdings) Ltd.*, *supra*, at 590–592; *O'Hagan*, *supra*, at 655–657; *Bankers Life*, *supra*, at 10. And the relevant statements or omissions were material to a transaction in the relevant securities by or on behalf of someone other than the fraudster.

Second, the Government points out that § 10(b) of the Securities Exchange Act also uses the phrase "in connection with the purchase or sale of any security." 15 U. S. C. § 78j(b). And the Government warns that a narrow interpretation of "in connection with" here threatens a similarly narrow interpretation there, which could limit the SEC's enforcement capabilities. See Brief for United States as *Amicus Curiae* 28.

We do not understand, however, how our interpretation could significantly curtail the SEC's enforcement powers. As far as the Government has explained the matter, our interpretation seems perfectly consistent with past SEC practice. For one thing, we have cast no doubt on the SEC's ability to bring enforcement actions against Stanford and Stanford International Bank. The SEC has already done so successfully. As we have repeatedly pointed out, the term "security" under § 10(b) covers a wide range of financial products beyond those traded on national exchanges, apparently including the Bank's certificates of deposit at issue in these cases. No one here denies that, for § 10(b) purposes, the "material" misrepresentations by Stanford and his associates were made "in connection with" the "purchases" of those certificates.

We find it surprising that the dissent worries that our decision will "narro[w] and constric[t] essential protection for our national securities markets," *post*, at 400, and put "frauds like the one here . . . not within the reach of federal regulation," *post*, at 407. That would be news to Allen Stanford, who was sentenced to 110 years in federal prison after a successful federal prosecution, and to Stanford International Bank, which was ordered to pay billions in federal fines, after the same. Frauds like the one here—including *this fraud itself*—will continue to be within the reach of federal regulation because the authority of the SEC and Department of Justice extends to all "securities," not just to those traded on national exchanges. 15 U. S. C. § 78c(a)(10); accord, § 77b(a)(1), § 80a–2(a)(36), § 80b–2(a)(18). When the fraudster peddles an uncovered security like the CDs here, the Federal Government will have the full scope of its usual powers to act. The only difference between our approach and that of the dissent is that we *also* preserve the ability for investors to obtain relief under state laws when the fraud bears so remote a connection to the national securities market that no person actually believed he was taking an ownership position in that market.

Thus, despite the Government's and the dissent's hand wringing, neither has been able to point to an example of any prior SEC enforcement action brought during the past 80 years that our holding today would have prevented the SEC from bringing. At oral argument, the Government referred to an administrative proceeding, *In re Line*, 62 S. E. C. Docket 2879 (1996), as its best example. Our examination of the report of that case, however, indicates that the defendant was a fraudster to whom the fraud's victims had loaned money, expecting that he would purchase securities on *their* behalf. *Id.*, at 2880 ("Line represented to investors that he would invest their non-admitted assets in various securities, including U. S. Treasury notes, mutual fund shares, and collateralized debt obligations"); *ibid.* ("[He] fab-

ricated account statements which falsely recited that securities had been purchased on behalf of certain investors").

The Government's brief refers to two other proceedings as demonstrating the SEC's broad § 10(b) enforcement powers. Each, however, involved defrauded investors who had tried to take an ownership interest in the relevant securities. *Jett*, 82 S. E. C. Docket, at 1251 (involving a § 10(b) action where a defrauded trading firm's "decision to purchase or 'invest' in strips or bonds . . . stemmed directly from the activity that constituted the fraud"); *In re D. S. Waddy & Co.*, 30 S. E. C. 367, 368 (1949) (involving a § 10(b) action where a broker "appropriated to his own use money paid to him by customers for securities purchases"). We have examined SEC records without finding any further examples.

For these reasons, the dissent's warning that our decision will "inhibit" "litigants from using federal law to police frauds" and will "undermine the primacy of federal law in policing abuses in the securities markets" rings hollow. *Post*, at 401, 402. The dissent cannot point to one example of a federal securities action—public or private—that would have been permissible in the past but that our approach will disallow in the future. And the irony of the dissent's position is that federal law would have *precluded* private recovery in these very suits, because § 10(b) does not create a private right of action for investors vis-à-vis "secondary actors" or "aiders and abettors" of securities fraud. *Stoneridge Investment Partners*, 552 U. S., at 152, 155; *Central Bank of Denver*, 511 U. S., at 180; accord, Brief for Petitioners in No. 12–86, p. 46 ("Any federal securities action against Petitioners would clearly run afoul of *Central Bank* and *Stoneridge*"); Brief for Respondents 48 (same); Brief for United States as *Amicus Curiae* 28 (same).

III

Respondents' complaints specify that their claims rest upon their purchases of uncovered, not of covered, securities.

Our search for allegations that might bring their allegations within the scope of the Litigation Act reveals the following:

(1) The first set of Texas plaintiffs alleged that they bought certificates of deposit from Stanford International Bank because they were told "the CDs issued by SIB were safer even than U. S. bank-issued CDs" and "could be redeemed at any time," given that the Bank "only invested the money [*i. e.*, the Bank's money obtained from its certificate sale proceeds] in safe, secure, and liquid assets." App. 433. They claimed Stanford "touted the high quality of SIB's investment portfolio," and such falsehoods were material to their decision to purchase the uncovered certificates. *Id.*, at 444.

(2) The second set of Texas plaintiffs contended that they, too, purchased the Bank's certificates on the belief "that their money was being invested in safe, liquid investments." *Id.*, at 715. They alleged that the Bank's marketing materials stated it devoted "the greater part of its assets" to "first grade investment bonds (AAA, AA+, AA) and shares of stock (of great reputation, liquidity, and credibility)." *Id.*, at 744 (emphasis deleted).

(3) Both groups of Louisiana plaintiffs alleged that they were induced to purchase the certificates based on misrepresentations that the Bank's assets were "'invested in a well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks.'" *Id.*, at 253, 345. And they claimed the "'liquidity/marketability of SIB's invested assets'" was "the most important factor to provide security to SIB clients." *Id.*, at 254.

These statements do not allege, for Litigation Act purposes, misrepresentations or omissions of material fact "in connection with" the "purchase or sale of a covered security." At most, the complaints allege misrepresentations about the *Bank's* ownership of covered securities—fraudulent assurances that the Bank owned, would own, or would use the victims' money to buy *for itself* shares of covered securities.

But the Bank is an entity that made the misrepresentations. The Bank is the fraudster, not the fraudster's victim. Nor is the Bank some other person transacting (or refraining from transacting, see *Dabit*, 547 U. S., at 75–77) in covered securities. And consequently, there is not the necessary "connection" between the materiality of the misstatements and the statutorily required "purchase or sale of a covered security." See *supra*, at 386–387.

A final point: The District Court found that one of the plaintiffs acquired Bank certificates "with the proceeds of selling" covered securities contained in his IRA portfolio. App. to Pet. for Cert. in No. 12–86, at 70. The plaintiffs, however, did not allege that the sale of these covered securities (which were used to finance the purchase of the certificates) constituted any part of the fraudulent scheme. Nor did the complaints allege that Stanford or his associates were at all interested in how the plaintiffs obtained the funds they needed to purchase the certificates. Thus, we agree with the Court of Appeals that "[u]nlike *Bankers Life* and *Zandford*, where the entirety of the fraud depended upon the tortfeasor convincing the victims of those fraudulent schemes to sell their covered securities in order for the fraud to be accomplished, the allegations here are not so tied with the sale of covered securities." 675 F. 3d, at 523. In our view, like that of the Court of Appeals, these sales constituted no relevant part of the fraud but were rather incidental to it.

For these reasons the Court of Appeals' judgment is affirmed.

It is so ordered.

JUSTICE THOMAS, concurring.

I join the opinion of the Court on the understanding that the "misrepresentation[s] . . . of . . . material fact" alleged in these cases are not properly considered "in connection with" transactions in covered securities. 15 U. S. C. § 78bb(f)(1)(A). We have said that the statutory phrase "in connec-

tion with" warrants a "broad interpretation," *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit*, 547 U. S. 71, 85 (2006), though not so broad as to reach any "common-law fraud that happens to involve securities," *SEC* v. *Zandford*, 535 U. S. 813, 820 (2002). Considered in isolation, however, that phrase "is essentially 'indeterminat[e]' because connections, like relations, 'stop nowhere.'" *Maracich* v. *Spears*, 570 U. S. 48, 59 (2013) (some internal quotation marks omitted). The phrase thus "provides little guidance without a limiting principle consistent with the structure of the statute and its other provisions." *Id.*, at 60. As I understand it, the opinion of the Court resolves these cases by applying a limiting principle to the phrase "in connection with" that is "consistent with the statutory framework and design" of the Securities Litigation Uniform Standards Act of 1998, *ibid.*, and also consistent with our precedents.

JUSTICE KENNEDY, with whom JUSTICE ALITO joins, dissenting.

A number of investors purchased certificates of deposit (CDs) in the Stanford International Bank (SIB). For purposes of this litigation all accept the premise that Allen Stanford and SIB induced the investors to purchase the CDs by fraudulent representations. In various state and federal courts the investors filed state-law suits against persons and entities, including attorneys, accountants, brokers, and investment advisers, alleging that they participated in or enabled the fraud. The defendants in the state-court suits removed the actions to federal court, where they were consolidated with the federal-court suits. The defendants contended that the state-law suits are precluded under the terms of the Securities Litigation Uniform Standards Act of 1998 (SLUSA or Act), 15 U. S. C. § 78bb(f)(1). As the investors prevailed in the Court of Appeals, they are the respondents here. The persons and entities who were defendants in the state-law actions are the petitioners. The investors

contend the state-law suits are not precluded by SLUSA, and the petitioners contend the suits are precluded.

For purposes of determining SLUSA's reach, all can agree that the CD purchases would not have been, without more, transactions regulated by that Act; for the CDs were not themselves covered securities. As a result, in determining whether the Act must be invoked, a further circumstance must be considered: The investors purchased the CDs based on the misrepresentations that the CDs were, or would be, backed by investments in, among other assets, covered securities.

What must be resolved, to determine whether the Act precludes the state-law suits at issue, is whether the misrepresentations regarding covered securities and the ensuing failure to invest in those securities were so related to the purchase of the CDs that the misrepresentations were "misrepresentation[s] or omission[s] of a material fact in connection with the purchase or sale of a covered security." 15 U. S. C. § 78bb(f)(1)(A).

The opinion for the Court, it seems fair to say, adopts this beginning framework, and it is quite correct to do so. The Court is further correct to view this litigation as involving a fraud of a type, scale, and perhaps sophistication that has not yet been addressed in its precedents with respect to the applicability of the federal securities laws.

It is the premise of this dissent that the more simple frauds addressed in this Court's precedents, where the Court did find fraud "in connection with the purchase or sale," are applicable here. In those cases, as here, the immediate cause of loss to the victim of the fraud was not simply a purchase or sale but rather a fraud that depended on the purchase or sale of securities or the promise to do so. It is submitted that this litigation should not come out differently simply because the fraud here was so widespread that many investors were misled by misrepresentations respecting investments, or promised investments, in regulated securities

in the markets. And it is necessary to caution that, in holding otherwise, the Court adopts a new approach, an approach which departs from the rules established in the earlier, albeit simpler, cases. And, as a consequence, today's decision, to a serious degree, narrows and constricts essential protection for our national securities markets, protection vital for their strength and integrity. The result will be a lessened confidence in the market, a force for instability that should otherwise be countered by the proper interpretation of federal securities laws and regulations. Though the reasons supporting the Court's opinion are set forth with care and clarity, this respectful dissent submits that established principles do not support its holding.

I

It must be determined whether the misrepresentations to the investors—misrepresentations that led them to buy CDs in the belief they could rely on the expertise and sophistication of Stanford and SIB in the national securities markets—were "misrepresentation[s] or omission[s] of . . . material fact[s] in connection with the purchase or sale of a covered security." 15 U. S. C. § 78bb(f)(1). This is the central provision of SLUSA for purposes of this litigation. The Court's precedents instruct that this language has broad application and must be construed flexibly in order to encompass new and ever more ingenious fraudulent schemes. *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit*, 547 U. S. 71, 85 (2006); *SEC* v. *Zandford*, 535 U. S. 813, 819 (2002). The Court has held that a material misrepresentation is made "in connection with the purchase or sale" of a security when the "fraud coincided with the sales [or purchases] themselves." *Id.*, at 820.

This significant language must apply here in order to implement two of Congress' purposes in passing SLUSA. First, SLUSA seeks to preclude a broad range of state-law securities claims in order to protect those who advise, counsel, and otherwise assist investors from abusive and multi-

plicitous class actions designed to extract settlements from defendants vulnerable to litigation costs. This, in turn, protects the integrity of the markets. Second, even as the Act cuts back on the availability of state-law securities claims, a fair interpretation of its language ensures robust federal regulation of the national securities markets. That is because, in designing SLUSA, Congress "imported the key phrase" from § 10(b) of the Securities Exchange Act of 1934 and Securities and Exchange Commission (SEC) Rule 10b–5, which provide a private cause of action, as well as SEC enforcement authority, for securities fraud. *Dabit*, 547 U. S., at 79, 85. As a result, that language must be "'presumed to have the same meaning'" in SLUSA as it does in those contexts. *Id.*, at 86.

The Court's narrow interpretation of the Act's language will inhibit the SEC and litigants from using federal law to police frauds and abuses that undermine confidence in the national securities markets. Throughout the country, then, it will subject many persons and entities whose profession it is to give advice, counsel, and assistance in investing in the securities markets to complex and costly state-law litigation based on allegations of aiding or participating in transactions that are in fact regulated by the federal securities laws.

A

Congress enacted SLUSA and its predecessor, the Private Securities Litigation Reform Act of 1995, to reform "perceived abuses of the class-action vehicle in litigation involving nationally traded securities." *Dabit*, 547 U. S., at 81. Congress found that these abuses were being used "to injure 'the entire U. S. economy.'" *Ibid.* The Act and its predecessor together addressed these problems by limiting damages, imposing heightened pleading standards, and, as most relevant here, precluding state-law claims involving nationally traded securities. 112 Stat. 3227; see S. Rep. No. 104–98, pp. 19–20 (1995); H. R. Rep. No. 105–640, p. 10 (1998); S. Rep. No. 105–182, pp. 3–4 (1998).

In light of the Act's objectives, the Act must be given a "broad construction," because a "narrow reading of the statute would undercut the effectiveness" of Congress' reforms. *Dabit*, *supra*, at 86. Today's decision does not heed that principle. The Court's narrow reading of the statute will permit proliferation of state-law class actions, forcing defendants to defend against multiple suits in various state fora. This state-law litigation will drive up legal costs for market participants and the secondary actors, such as lawyers, accountants, brokers, and advisers, who seek to rely on the stability that results from a national securities market regulated by federal law. See *Central Bank of Denver, N. A.* v. *First Interstate Bank of Denver, N. A.*, 511 U. S. 164, 189 (1994). This is a serious burden to put on attorneys, accountants, brokers, and investment advisers nationwide; and that burden itself will make the national securities markets more costly and difficult to enter. The purpose of the Act is to preclude just these suits. By permitting the very state-law claims Congress intended to prohibit, the Court will undermine the primacy of federal law in policing abuses in the securities markets.

The Court casts its rule as allowing victims to recover against secondary actors under state law when they would not be able to recover under federal law due to *Central Bank*. *Ante*, at 391, 395. But in *Dabit* a unanimous Court rejected that conception of SLUSA. A federal-law claim was not available to the plaintiffs in *Dabit* because *Blue Chip Stamps* v. *Manor Drug Stores*, 421 U. S. 723 (1975), limited the Rule 10b–5 private right of action to purchasers and sellers, not holders. "[T]he Second Circuit held that SLUSA only pre-empts state-law class action claims brought by plaintiffs who have a private remedy under federal law." 547 U. S., at 74. The Court held the opposite, "concluding that SLUSA pre-empts state-law holder class-action claims." *Id.*, at 87. "It would be odd, to say the least," the Court reasoned, "if SLUSA exempted that particularly troublesome subset of class actions from its pre-emptive sweep."

Id., at 86. The Court in *Dabit* also noted that SLUSA preclusion does not leave victims with "no" ability to "recover damages under state law." *Ante*, at 381. Rather, "[i]t simply denies plaintiffs the right to use the class-action device to vindicate certain claims." 547 U. S., at 87. The Court in *Dabit* precluded the suit at issue in order to effect the purpose of *Blue Chip*. By following the opposite course today, the Court revisits *Dabit*'s logic and undermines *Central Bank*.

B

Congress intended to make "federal law, not state law, . . . the principal vehicle for asserting class-action securities fraud claims." *Dabit*, *supra*, at 88. And a broad construction of the "in connection with" language found in both SLUSA and Rule 10b–5 ensures an efficient and effective federal regulatory regime, one equal to the task of deterring and punishing fraud and providing compensation for victims.

In undertaking regulation of the national markets during the Great Depression, Congress sought to eliminate the "abuses which were found to have contributed to the stock market crash of 1929 and the depression of the 1930's." *SEC* v. *Capital Gains Research Bureau, Inc.*, 375 U. S. 180, 186 (1963). "'It requires but little appreciation . . . of what happened in this country during the 1920's and 1930's to realize how essential it is that the highest ethical standards prevail' in every facet of the securities industry." *Id.*, at 186–187 (quoting *Silver* v. *New York Stock Exchange*, 373 U. S. 341, 366 (1963)). In the Securities Exchange Act, Congress sought "'to achieve a high standard of business ethics in the securities industry'" by "'substitut[ing] a philosophy of full disclosure for the philosophy of *caveat emptor*.'" *Affiliated Ute Citizens of Utah* v. *United States*, 406 U. S. 128, 151 (1972). To that end, Congress enacted § 10(b) "to insure honest securities markets and thereby promote investor confidence." *United States* v. *O'Hagan*, 521 U. S. 642, 658 (1997).

Investor confidence indicates fair dealing and integrity in the markets. See *Dabit*, *supra*, at 78; *O'Hagan*, *supra*, at 658; see also *Central Bank*, *supra*, at 188. It also is critical to achieving an efficient market. The corollary to the principle that insider trading and other frauds have an "inhibiting impact on market participation" is that investor confidence in strong federal regulation to prevent these abuses inspires participation in the market. See *O'Hagan*, *supra*, at 659. Widespread market participation in turn facilitates efficient allocation of capital to the Nation's companies. See also *Central Bank*, *supra*, at 188.

C

Mindful of the ends of both SLUSA and Rule 10b–5, the Court's precedents interpret the key phrase in both laws to mean that a "misrepresentation or omission of a material fact" is made "in connection with the purchase or sale" of a security when the "fraud coincided with the sales [or purchases] themselves." *Zandford*, 535 U. S., at 820; see also *Dabit*, *supra*, at 85.

This litigation is very similar to *Zandford* and satisfies the coincides test it sets forth, and for similar reasons. In *Zandford*, the SEC brought a civil action against a broker, who, over a period of time, gained control of an investment account, sold its securities, and then pocketed the proceeds. 535 U. S., at 815–816. The broker argued that "the sales themselves were perfectly lawful and that the subequent misappropriation of the proceeds, though fraudlent, is not properly viewed as having the requisite connection with the sales." *Id.*, at 820. The Court rejected that argument. Although the transactions were lawful and separate from the misappropriations, the two were "not independent events." *Ibid.* Rather, the fraud "coincided with the sales," in part because the sales "further[ed]" the fraud. *Ibid.*

The Court likened the broker's fraud to that in *Superintendent of Ins. of N. Y.* v. *Bankers Life & Casualty Co.*, 404 U. S. 6, 10 (1971), where the fraud victims were misled to

believe that they "would receive the proceeds of the sale" of securities. *Zandford*, *supra*, at 821. Like the victims in *Bankers Life*, the victims in *Zandford* "were injured as investors through [the broker]'s deceptions" because "[t]hey were duped into believing that [the broker] would 'conservatively invest' their assets in the stock market and that any transactions made on their behalf would be for their benefit." 535 U. S., at 822. Both suffered losses because they were victims of dishonest intermediaries or fiduciaries. See also *In re Line*, 62 S. E. C. Docket 2879 (1996) (broker who induced parents to transfer funds to him to invest in securities so as to temporarily hide them during the college financial aid application process, but then failed to return the money, violated Rule 10b–5).

Here, just as in *Zandford*, the victims parted with their money based on a fraudster's promise to invest it on their behalf by purchases and sales in the securities markets. The investors had—or were led to believe they could have—the advantages of Stanford's and SIB's expertise in investments in the national market. So here, as in *Zandford*, the success of the fraud turned on the promise to trade in regulated securities. According to the complaints, SIB represented that it would "'re-inves[t]'" the plaintiffs' money on their behalf in "a well-diversified portfolio of highly marketable securities issued by stable national governments, strong multinational companies, and major international banks" to ensure a "safe, liquid," and above-market return. See App. 244, 249, 250, 253, 336, 342, 345, 444, 470, 480, 628. The misrepresentation was about nationally traded securities and lent credence to SIB's promise that the CDs were a liquid investment that "could be redeemed with just a few days' notice." See *id.*, at 253, 345, 445, 628. The CDs, SIB explained, would be backed by nationally traded securities. As a result, according to the complaints, the misrepresentation was "material." *Id.*, at 244–245, 336–338, 480, 715. The fraud could not have succeeded without the misrepre-

sentation: The investors gave SIB money because they expected it to be invested in the national securities markets. The connection between the promised purchases and the misrepresentation is more direct than in *Zandford*, because the misrepresentation was essential to the fraud.

Here, and again just as in *Zandford*, the fraud was not complete until the representation about securities transactions became untrue, just as Stanford intended all along. Instead of purchasing covered securities, SIB purchased some but fewer covered securities than it promised—only 10% of its portfolio, according to an affidavit attached to a complaint—and primarily speculated in Caribbean real estate. Brief for Respondents 37; App. 594; but see Tr. of Oral Arg. 43–44 (suggesting SIB did not purchase securities). It was not until SIB rendered the CDs illiquid by failing to make substantial investments in the nationally traded securities it promised that the fraud was consummated. At that point, SIB blocked the plaintiffs' access to the market. The fraud and SIB's failure to purchase all that it promised were not independent events. Rather, the false promises to invest in covered securities enabled and furthered the CD fraud. Without the false promise, there would have been no money to purchase the covered securities. On these facts, this Court's controlling precedents instruct that these misrepresentations were made "in connection with the purchase or sale" of regulated securities; and, as a result, state-law claims concerning them should be precluded.

Dabit provides further support for this conclusion. There, the Court held that an investment bank that deceived brokers into advising their clients to hold covered securities made misrepresentations "in connection with the purchase or sale of a covered security." "Under our precedents," the Court explained, "it is enough that the fraud alleged 'coincide' with a securities transaction—whether by the plaintiff or by someone else." 547 U. S., at 85. It did not matter that the plaintiffs did not purchase or sell securities, because

they were participants in the national markets: "The requisite showing, in other words," is "'deception "in connection with the purchase or sale of any security," not deception of an identifiable purchaser or seller.'" *Ibid.* (quoting *O'Hagan*, 521 U. S., at 658). Here, for like reasons, it does not matter that the fraud victims, as opposed to Stanford and SIB, were not the ones to fail to invest in the market. The very essence of the fraud was to induce purchase of the CDs on the (false) promise that investors should rely on SIB's special skills and expertise in making market investments in covered securities on their behalf. If promises related to covered securities are integral to the fraud in this direct way, federal regulation is necessary if confidence in the market is to be maintained.

That interest is at stake here. Because confidence in the ability to act as an investor without diversion of funds by intermediaries and insiders is critical, it does not matter if the victim of a fraud does not purchase or sell a security, *Dabit*, 547 U. S., at 85; or if the sale or purchase does not occur at the same time as the deception, *Bankers Life*, 404 U. S., at 12–13; or if no party to the actual transaction is deceived by the fraud, *O'Hagan*, *supra*, at 656; or if the misrepresentation has nothing to do with the value of a covered security, *Zandford*, *supra*, at 820. An investor's confidence in the market, and willingness to participate in it, may be severely undermined if frauds like the one here are not within the reach of federal regulation. Frauds like this one undermine investor confidence in attorneys, accountants, brokers, and investment advisers, the intermediaries on whom investors depend to gain access to the market. And when frauds are as widespread as this one, the market as a whole is weakened because investors, including sophisticated ones, are misled as to the amount of funds committed to the market and its consequent stability and resilience.

The rule that SLUSA applies when a misrepresentation about the market is coincident to the fraud is, then,

essential to the framework of the Act and to federal securities regulation. Fraudulent practices "'constantly vary,'" and "'practices legitimate for some purposes may be turned to illegitimate and fraudulent means.'" *Bankers Life*, *supra*, at 12. That is why the key language "should be construed not technically and restrictively, but flexibly to effectuate its remedial purposes." *Zandford*, 535 U. S., at 819 (internal quotation marks omitted); see *Affiliated Ute*, 406 U. S., at 151. The language merits a "broad interpretation" because it is part of a residuary provision that must be able to accommodate evolving methods of fraud by intermediaries and insiders in ever more complicated securities markets. *Central Bank*, 511 U. S., at 174. Its interpretation should not privilege fraudsters who devise ever more devious methods of committing fraud involving covered securities.

At the same time, the submitted interpretation is not so broad as to "convert every common-law fraud that happens to involve securities into a violation of § 10(b)" or preclude all state tort claims that involve securities in a tangential way. *Zandford*, *supra*, at 820. So, for example, the statutory language does not extend to cover a thief who steals money from a store to buy securities or to a fraudster who defrauds a bank for a loan that he uses to buy securities. See *O'Hagan*, *supra*, at 656. The victims in those cases are not concerned about their ability to act as investors but rather about their duties as a store clerk or a loan officer. Those frauds involve securities transactions only as happenstance. As a result, the interpretation submitted in this dissent strikes the balance that Congress intended between forbidding frauds by intermediaries in the market without reaching frauds that touch the markets in only tangential ways.

The key question is whether the misrepresentation coincides with the purchase or sale of a covered security or the purchase or sale of the securities is what enables the fraud. Stanford's misrepresentation did so. Stanford promised to

purchase covered securities for investors, using his special expertise, thus allowing investors to rely on his skill to participate in the national securities markets. The entire scheme rested on investors falling for the trick. When covered securities are so integral to the fraud, the false promise is incident to the purchase or sale of regulated securities because it coincides with it, and the misrepresentation respecting national securities enabled the fraud.

D

The Court interprets the phrase "misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security"—the key phrase in SLUSA and Rule 10b–5—in a different manner. The result, it is submitted, is inconsistent with the statutory scheme Congress enacted and casts doubt on the applicability of federal securities law to cases of serious securities fraud.

The Court construes the text of SLUSA and Rule 10b–5 to require a misrepresentation that "is material to a decision by one or more individuals (other than the fraudster) to buy or sell a 'covered security.'" *Ante*, at 387. The Act simply does not say that the purchase or sale—or the promise to make a purchase or sale—must be by one other than the fraudster. Rather the Act states that there must be "a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security." 15 U. S. C. §78bb(f)(1)(A). See 17 CFR §240.10b–5 (2013) (requiring an "untrue statement of a material fact" "in connection with the purchase or sale of any security"). The Court narrows the statute Congress wrote in two ways. It excises the important "in connection with" language, resulting in a confined reading inconsistent with the Act's purpose, structure, and operation. And, by requiring the purchase or sale be made by someone "other than the fraudster," the Court inserts a limiting phrase that nowhere appears in the language of the provisions. In litigation like this, this new rule has it upside down. When the violation that adversely affects

the securities market is done by the fraudster himself, that is all the more reason for applying federal law. This is not a case where Congress has limited its coverage to a certain subset of purchasers. Congress enacted such a limit two subsections later in SLUSA when detailing which actions are not precluded. See 15 U. S. C. § 78bb(f)(3)(A)(ii)(I) ("the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer"). But it did not do so in the provision at issue.

The Court's reconstruction of the language of the provisions also casts doubt on the applicability of federal securities law to three established instances of federal securities fraud and one instance of preclusion under the Act as adjudged by the Court and the SEC in earlier cases.

First, the Court's interpretation necessarily suggests that *Zandford* is incorrect and that dishonest brokers need not fear Rule 10b–5 liability. The deceit in *Zandford* was that the broker would act as the victim's fiduciary when in fact he planned on selling (and did sell) the investor's securities for his own benefit. 535 U. S., at 820; see also *Line*, 62 S. E. C. Docket 2879 (broker's deceit was false promise to buy). The Court's rule that liability must rest on a finding that someone other than the fraudster purchased or sold securities is inconsistent with *Zandford*, where the recipient of the misrepresentation did not buy or sell. The Court's opinion disregards the hazards to the market when the fraudster is the one acting in the market and frustrates the investment objectives of his victims.

Second, the Court's interpretation is difficult to reconcile with liability for insider trading. In *O'Hagan*, the Court held that the "in connection with" element "is satisfied because the fiduciary's fraud is consummated, not when the fiduciary gains the confidential information, but when, without disclosure to his principal, he uses the information to purchase or sell securities," "even though the person or entity defrauded is not the other party to the trade." 521

U. S., at 656. The Court's requirement that someone other than the fraudster purchase or sell a security is hard to square with *O'Hagan*.

Third, the Court's interpretation is difficult to square with the SEC's position in *In re Jett*, 82 S. E. C. Docket 1211 (2004). There, the SEC held liable a trader who fabricated complex trades to supplement the returns of his real trades, so as to increase his standing in his company. The SEC likened Jett to "garden-variety securities fraud cases in which a broker-dealer or investment adviser engages in unsuccessful securities trades for a client and then hides the losses or inflates the profits by sending out false account statements." *Id.*, at 1253. The decision of the Court today would require that Jett's misrepresentation led to the purchase or sale of securities by someone other than Jett. But the SEC found Jett's own purchases and sales to be sufficient to come within the securities laws.

Finally, the Court's analysis is inconsistent with the unanimous opinion in *Dabit*, which interpreted the same statutory language at issue in this litigation. *Dabit* squarely rejected the view that "an alleged fraud is 'in connection with' a purchase or sale of securities only when the plaintiff himself was defrauded into purchasing or selling particular securities." 547 U. S., at 85. Instead, it approved the SEC's interpretation that a broker who " 'sells customer securities with intent to misappropriate the proceeds' " satisfies the "in connection with the purchase or sale" requirement. *Ibid.*, n. 10. *Dabit* cannot be reconciled with today's decision to require someone other than the fraudster buy or sell a security.

It is correct that there is no case precisely standing for the proposition that a victim does not have to take an ownership position. However, *O'Hagan* supports that view. *O'Hagan* clearly states that in insider trading cases "the person or entity defrauded is not the other party to the trade." 521 U. S., at 656. And in *Zandford*, a fraudster told customers he would invest "their money" in securities and then sold

those securities. 535 U. S., at 815. Here the fraudster told plaintiffs that he would "re-invest" "their" money in securities and then bought different securities. App. 250, 470, 715. The only difference is that there the fraudster sold and here he bought. Federal regulation should not turn on whether a fraudster arrives before or after an investor makes his first purchase.

II

The Court's interpretation also introduces confusion into securities law by not defining what it means for someone "other than the fraudster to buy or sell" a security, a rule that it derives from its view that the precedents all involve victims who had an ownership interest in securities. *Ante*, at 387–389. The precedents the Court cites involve what the parties have called direct ownership, where the victim buys or sells an entire equity. By using the term ownership interest instead of ownership, the Court also appears to accept the respondents' concession that indirect ownership, where the victim buys or sells shares in a defendant fund that itself owns equities, is sufficient in certain circumstances, such as when a victim has "some interest in the defendant's supposed portfolio." Brief for Respondents 16.

An ownership rule distinguishing between different types of indirect ownership is unworkable. Indirect ownership is a common type of investment. See M. Fink, The Rise of Mutual Funds 1 (2008) (U. S. mutual funds have over 88 million American shareholders and over $11 trillion in assets). Yet whether indirect ownership involves an interest in the underlying equities is a complex question of corporation, LLC, or partnership law. See *In re Bernard L. Madoff Inv. Securities LLC*, 708 F. 3d 422, 427 (CA2 2013). Congress likely did not intend preclusion of state-law suits to depend on the complexities of the Delaware Code.

The Court's ownership approach also casts doubt on the scope of Rule 10b–5. Under the Court's interpretation, § 10(b) applies to fraudulent mutual or hedge funds not

because those funds invest in securities but because investments in the funds are securities. But not all such investments are securities. 2 L. Ribstein & R. Keatinge, Limited Liability Companies § 14:2 (2010) (discussing test for a security from *SEC* v. *W. J. Howey Co.*, 328 U. S. 293 (1946)); 1 H. Bloomenthal & S. Wolff, Securities Law Handbook §§ 2:3 to 2:4 (2010). For those that are not, the Court seems to envision liability only when the investment confers an ownership interest in the fund's securities. And the general rule for investments in funds organized as LLPs and LLCs is that they do not convey such claims. 1 Ribstein & Keatinge, *supra*, § 7:11; see *In re Herald*, 730 F. 3d 112 (CA2 2013). As a result, in important instances Rule 10b–5 may not extend to mutual and hedge funds under the Court's interpretation.

It is true that the SEC pursued the fraudster with success here. But that is because the CDs are securities. See Order Denying Motion To Dismiss in *SEC* v. *Stanford International Bank*, No. 3–09–CV–0298–N (ND Tex., Nov. 30, 2011), pp. 5–10. This aspect of Stanford's fraud is not a necessary feature of all frauds involving funds similar to SIB.

III

The fraudster in this litigation misrepresented that he would purchase nationally traded securities. That misrepresentation was made "in connection with the purchase or sale" of the promised securities because it coincided with them. The fraud turned on the misrepresentation. The Court's contrary interpretation excises the phrase "in connection with" from the Act, a phrase that the Court in earlier cases held to require a broad and flexible meaning. At the same time, by holding that the purchase or sale of securities be made by someone other than the fraudster, the Court engrafts a limitation that does not appear in the text. The result is to constrict the application of federal securities regulation in instances where dishonest brokers, insider traders, and lying employees purchase or sell securities, or promise

to do so, as part of the fraud. Today's decision introduces confusion in the enforcement of securities laws.

For these reasons, it is submitted that the judgment of the Court of Appeals should be reversed.

Syllabus

LAW *v.* SIEGEL, CHAPTER 7 TRUSTEE

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

No. 12–5196. Argued January 13, 2014—Decided March 4, 2014

Petitioner Law filed for Chapter 7 bankruptcy. He valued his California home at $363,348, claiming that $75,000 of that value was covered by California's homestead exemption and thus was exempt from the bankruptcy estate. See 11 U. S. C. § 522(b)(3)(A). He also claimed that the sum of two voluntary liens—one of which was in favor of "Lin's Mortgage & Associates"—exceeded the home's nonexempt value, leaving no equity recoverable for his other creditors. Respondent Siegel, the bankruptcy estate trustee, challenged the "Lin" lien in an adversary proceeding, but protracted and expensive litigation ensued when a supposed "Lili Lin" in China claimed to be the beneficiary of Law's deed of trust. Ultimately, the Bankruptcy Court concluded that the loan was a fiction created by Law to preserve his equity in the house. It thus granted Siegel's motion to "surcharge" Law's $75,000 homestead exemption, making those funds available to defray attorney's fees incurred by Siegel in overcoming Law's fraudulent misrepresentations. The Ninth Circuit Bankruptcy Appellate Panel and the Ninth Circuit affirmed.

Held: The Bankruptcy Court exceeded the limits of its authority when it ordered that the $75,000 protected by Law's homestead exemption be made available to pay Siegel's attorney's fees. Pp. 420–428.

(a) A bankruptcy court may not exercise its authority to "carry out" the provisions of the Code, 11 U. S. C. § 105(a), or its "inherent power . . . to sanction 'abusive litigation practices,'" *Marrama* v. *Citizens Bank of Mass.*, 549 U. S. 365, 375–376, by taking action prohibited elsewhere in the Code. Here, the Bankruptcy Court's "surcharge" contravened § 522, which (by reference to California law) entitled Law to exempt $75,000 of equity in his home from the bankruptcy estate, § 522(b)(3)(A), and which made that $75,000 "not liable for payment of any administrative expense," § 522(k), including attorney's fees, see § 503(b)(2). The surcharge thus exceeded the limits of both the court's authority under § 105(a) and its inherent powers. Pp. 420–423.

(b) Siegel argues that an equitable power to deny an exemption by "surcharging" exempt property in response to a debtor's misconduct can coexist with § 522. But insofar as that argument equates the surcharge with an outright denial of Law's homestead exemption, it founders on this case's procedural history. The Bankruptcy Appellate Panel

recognized that because no one timely objected to the homestead exemption, it became final before the surcharge was imposed. And a trustee who fails to make a timely objection cannot challenge an exemption. *Taylor* v. *Freeland & Kronz*, 503 U. S. 638, 643–644. Assuming the Bankruptcy Court could have revisited Law's entitlement to the exemption, § 522 specifies the criteria that render property exempt, and a court may not refuse to honor a debtor's invocation of an exemption without a valid statutory basis. Federal courts may apply state law to disallow state-created exemptions, but federal law itself provides no authority for bankruptcy courts to deny an exemption on a ground not specified in the Code. Pp. 423–425.

(c) Neither the holding of *Marrama* v. *Citizens Bank* nor its dictum points toward a different result. There, the debtor's bad faith kept him from converting his bankruptcy from a Chapter 7 liquidation to a Chapter 13 reorganization as permitted by § 706(a). But that was because his conduct prevented him from qualifying under Chapter 13, and thus he could not satisfy § 706(d), which expressly conditions conversion on the debtor's ability to qualify under Chapter 13. Pp. 425–426.

(d) This ruling forces Siegel to shoulder a heavy financial burden due to Law's egregious misconduct and may produce inequitable results for other trustees and creditors, but it is not for courts to alter the balance that Congress struck in crafting § 522. Cf. *Guidry* v. *Sheet Metal Workers Nat. Pension Fund*, 493 U. S. 365, 376–377. Pp. 426–427.

(e) Ample authority remains to address debtor misconduct, including denial of discharge, see § 727(a)(2)–(6); sanctions for bad-faith litigation conduct under the Bankruptcy Rules, § 105(a), or a bankruptcy court's inherent powers; enforcement of monetary sanctions through the normal procedures for collecting money judgments, see § 727(b); or possible prosecution under 18 U. S. C. § 152. Pp. 427–428.

435 Fed. Appx. 697, reversed and remanded.

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

Matthew S. Hellman argued the cause for petitioner. With him on the briefs were *Jessica Ring Amunson*, *Catherine L. Steege*, and *Adam G. Unikowsky*.

Neal Kumar Katyal argued the cause for respondent. With him on the brief were *Steven T. Grubner*, *Mary Helen Wimberly*, and *Elizabeth B. Prelogar*.

Sarah E. Harrington argued the cause for the United States as *amicus curiae* urging affirmance. With her on the brief were *Solicitor General Verrilli*, *Assistant Attorney*

General Delery, Deputy Solicitor General Stewart, Michael S. Raab, Anne Murphy, Ramona D. Elliott, and *P. Matthew Sutko.**

JUSTICE SCALIA delivered the opinion of the Court.

The Bankruptcy Code provides that a debtor may exempt certain assets from the bankruptcy estate. It further provides that exempt assets generally are not liable for any expenses associated with administering the estate. In this case, we consider whether a bankruptcy court nonetheless may order that a debtor's exempt assets be used to pay administrative expenses incurred as a result of the debtor's misconduct.

I. Background

A

Chapter 7 of the Bankruptcy Code gives an insolvent debtor the opportunity to discharge his debts by liquidating his assets to pay his creditors. 11 U. S. C. §§ 704(a)(1), 726, 727. The filing of a bankruptcy petition under Chapter 7 creates a bankruptcy "estate" generally comprising all of the debtor's property. § 541(a)(1). The estate is placed under the control of a trustee, who is responsible for managing liquidation of the estate's assets and distribution of the proceeds. § 704(a)(1). The Code authorizes the debtor to "exempt," however, certain kinds of property from the estate, enabling him to retain those assets postbankruptcy. § 522(b)(1). Except in particular situations specified in the

*Briefs of *amici curiae* urging reversal were filed for Bankruptcy Law Scholars by *Deanne E. Maynard* and *Marc A. Hearron*; for the National Association of Consumer Bankruptcy Attorneys by *Danielle Spinelli, Craig Goldblatt, Daniel S. Volchok*, and *Tara Twomey*; and for G. Eric Brunstad, Jr., by *Mr. Brunstad, pro se, Collin O'Connor Udell*, and *Kate M. O'Keeffe.*

Briefs of *amici curiae* urging affirmance were filed for the National Association of Bankruptcy Trustees by *Lynne F. Riley* and *William C. Heuer*; and for the National Association of Chapter Thirteen Trustees by *Henry E. Hildebrand III.*

Code, exempt property "is not liable" for the payment of "any [prepetition] debt" or "any administrative expense." § 522(c), (k).

Section 522(d) of the Code provides a number of exemptions unless they are specifically prohibited by state law. § 522(b)(2), (d). One, commonly known as the "homestead exemption," protects up to $22,975 in equity in the debtor's residence. § 522(d)(1) and note following § 522; see *Owen* v. *Owen*, 500 U. S. 305, 310 (1991). The debtor may elect, however, to forgo the § 522(d) exemptions and instead claim whatever exemptions are available under applicable state or local law. § 522(b)(3)(A). Some States provide homestead exemptions that are more generous than the federal exemption; some provide less generous versions; but nearly every State provides some type of homestead exemption. See López, State Homestead Exemptions and Bankruptcy Law: Is It Time for Congress To Close the Loophole? 7 Rutgers Bus. L. J. 143, 149–165 (2010) (listing state exemptions).

B

Petitioner, Stephen Law, filed for Chapter 7 bankruptcy in 2004, and respondent, Alfred H. Siegel, was appointed to serve as trustee. The estate's only significant asset was Law's house in Hacienda Heights, California. On a schedule filed with the Bankruptcy Court, Law valued the house at $363,348 and claimed that $75,000 of its value was covered by California's homestead exemption. See Cal. Civ. Proc. Code Ann. § 704.730(a)(1) (West Supp. 2014). He also reported that the house was subject to two voluntary liens: a note and deed of trust for $147,156.52 in favor of Washington Mutual Bank, and a second note and deed of trust for $156,929.04 in favor of "Lin's Mortgage & Associates." Law thus represented that there was no equity in the house that could be recovered for his other creditors, because the sum of the two liens exceeded the house's nonexempt value.

If Law's representations had been accurate, he presumably would have been able to retain the house, since Siegel would

have had no reason to pursue its sale. Instead, a few months after Law's petition was filed, Siegel initiated an adversary proceeding alleging that the lien in favor of "Lin's Mortgage & Associates" was fraudulent. The deed of trust supporting that lien had been recorded by Law in 1999 and reflected a debt to someone named "Lili Lin." Not one but two individuals claiming to be Lili Lin ultimately responded to Siegel's complaint. One, Lili Lin of Artesia, California, was a former acquaintance of Law's who denied ever having loaned him money and described his repeated efforts to involve her in various sham transactions relating to the disputed deed of trust. *That* Lili Lin promptly entered into a stipulated judgment disclaiming any interest in the house. But that was not the end of the matter, because the second "Lili Lin" claimed to be the true beneficiary of the disputed deed of trust. Over the next five years, *this* "Lili Lin" managed—despite supposedly living in China and speaking no English—to engage in extensive and costly litigation, including several appeals, contesting the avoidance of the deed of trust and Siegel's subsequent sale of the house.

Finally, in 2009, the Bankruptcy Court entered an order concluding that "no person named Lili Lin ever made a loan to [Law] in exchange for the disputed deed of trust." *In re Law*, 401 B. R. 447, 453 (Bkrtcy. Ct. CD Cal.). The court found that "the loan was a fiction, meant to preserve [Law's] equity in his residence beyond what he was entitled to exempt" by perpetrating "a fraud on his creditors and the court." *Ibid.* With regard to the second "Lili Lin," the court declared itself "unpersuaded that Lili Lin of China signed or approved any declaration or pleading purporting to come from her." *Ibid.* Rather, it said, the "most plausible conclusion" was that Law himself had "authored, signed, and filed some or all of these papers." *Ibid.* It also found that Law had submitted false evidence "in an effort to persuade the court that Lili Lin of China—rather than Lili Lin of Artesia—was the true holder of the lien on his residence." *Id.*,

at 452. The court determined that Siegel had incurred more than $500,000 in attorney's fees overcoming Law's fraudulent misrepresentations. It therefore granted Siegel's motion to "surcharge" the entirety of Law's $75,000 homestead exemption, making those funds available to defray Siegel's attorney's fees.

The Ninth Circuit Bankruptcy Appellate Panel affirmed. BAP No. CC–09–1077–PaMkH, 2009 WL 7751415 (Oct. 22, 2009) (*per curiam*). It held that the Bankruptcy Court's factual findings regarding Law's fraud were not clearly erroneous and that the court had not abused its discretion by surcharging Law's exempt assets. It explained that in *Latman* v. *Burdette*, 366 F. 3d 774 (2004), the Ninth Circuit had recognized a bankruptcy court's power to "equitably surcharge a debtor's statutory exemptions" in exceptional circumstances, such as "when a debtor engages in inequitable or fraudulent conduct." 2009 WL 7751415, *5, *7. The Bankruptcy Appellate Panel acknowledged that the Tenth Circuit had disagreed with *Latman*, see *In re Scrivner*, 535 F. 3d 1258, 1263–1265 (2008), but the panel affirmed that *Latman* was correct. 2009 WL 7751415, *7, n. 10. Judge Markell filed a concurring opinion agreeing with the panel's application of *Latman* but questioning "whether *Latman* remains good policy." 2009 WL 7751415, *10.

The Ninth Circuit affirmed. *In re Law*, 435 Fed. Appx. 697 (2011) (*per curiam*). It held that the surcharge was proper because it was "calculated to compensate the estate for the actual monetary costs imposed by the debtor's misconduct, and was warranted to protect the integrity of the bankruptcy process." *Id.*, at 698. We granted certiorari. 570 U. S. 904 (2013).

II. Analysis

A

A bankruptcy court has statutory authority to "issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of" the Bankruptcy Code. 11

U. S. C. § 105(a). And it may also possess "inherent power . . . to sanction 'abusive litigation practices.' " *Marrama* v. *Citizens Bank of Mass.*, 549 U. S. 365, 375–376 (2007). But in exercising those statutory and inherent powers, a bankruptcy court may not contravene specific statutory provisions.

It is hornbook law that § 105(a) "does not allow the bankruptcy court to override explicit mandates of other sections of the Bankruptcy Code." 2 Collier on Bankruptcy ¶105.01[2], p. 105–6 (16th ed. 2013). Section 105(a) confers authority to "carry out" the provisions of the Code, but it is quite impossible to do that by taking action that the Code prohibits. That is simply an application of the axiom that a statute's general permission to take actions of a certain type must yield to a specific prohibition found elsewhere. See *Morton* v. *Mancari*, 417 U. S. 535, 550–551 (1974); *D. Ginsberg & Sons, Inc.* v. *Popkin*, 285 U. S. 204, 206–208 (1932).[1] Courts' inherent sanctioning powers are likewise subordinate to valid statutory directives and prohibitions. *Degen* v. *United States*, 517 U. S. 820, 823 (1996); *Chambers* v. *NASCO, Inc.*, 501 U. S. 32, 47 (1991). We have long held that "whatever equitable powers remain in the bankruptcy courts must and can only be exercised within the confines of" the Bankruptcy Code. *Norwest Bank Worthington* v. *Ahlers*, 485 U. S. 197, 206 (1988); see, *e. g.*, *Raleigh* v. *Illinois Dept. of Revenue*, 530 U. S. 15, 24–25 (2000); *United States* v. *Noland*, 517 U. S. 535, 543 (1996); *SEC* v. *United States Realty & Improvement Co.*, 310 U. S. 434, 455 (1940).

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[1] The second sentence of § 105(a) adds little to the analysis. It states: "No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process." Even if the "abuse of process" language were deemed to confer additional authority beyond that conferred by the first sentence (which is doubtful), that general authority would also be limited by more specific provisions of the Code.

Thus, the Bankruptcy Court's "surcharge" was unauthorized if it contravened a specific provision of the Code. We conclude that it did. Section 522 (by reference to California law) entitled Law to exempt $75,000 of equity in his home from the bankruptcy estate. § 522(b)(3)(A). And it made that $75,000 "not liable for payment of any administrative expense." § 522(k).[2] The reasonable attorney's fees Siegel incurred defeating the "Lili Lin" lien were indubitably an administrative expense, as a short march through a few statutory cross-references makes plain: Section 503(b)(2) provides that administrative expenses include "compensation . . . awarded under" § 330(a); § 330(a)(1) authorizes "reasonable compensation for actual, necessary services rendered" by a "professional person employed under" § 327; and § 327(a) authorizes the trustee to "employ one or more attorneys . . . to represent or assist the trustee in carrying out the trustee's duties under this title." Siegel argues that even though attorney's fees incurred responding to a debtor's fraud qualify as "administrative expenses" for purposes of determining the trustee's right to reimbursement under § 503(b), they do not so qualify for purposes of § 522(k); but he gives us no reason to depart from the "'normal rule of statutory construction'" that words repeated in different parts of the same statute generally have the same meaning. See *Department of Revenue of Ore.* v. *ACF Industries, Inc.*, 510 U. S. 332, 342 (1994) (quoting *Sorenson* v. *Secretary of Treasury*, 475 U. S. 851, 860 (1986)).

The Bankruptcy Court thus violated § 522's express terms when it ordered that the $75,000 protected by Law's homestead exemption be made available to pay Siegel's attorney's fees, an administrative expense. In doing so, the court ex-

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[2] The statute's general rule that exempt assets are not liable for administrative expenses is subject to two narrow exceptions, both pertaining to the use of exempt assets to pay expenses associated with the avoidance of certain voidable transfers of exempt property. § 522(k)(1)–(2). Neither of those exceptions is relevant here.

ceeded the limits of its authority under § 105(a) and its inherent powers.

B

Siegel does not dispute the premise that a bankruptcy court's § 105(a) and inherent powers may not be exercised in contravention of the Code. Instead, his main argument is that the Bankruptcy Court's surcharge did not contravene § 522. That statute, Siegel contends, "establish[es] the procedure by which a debtor may seek to claim exemptions" but "contains no directive requiring [courts] to allow [an exemption] regardless of the circumstances." Brief for Respondent 35. Thus, he says, recognition of an equitable power in the Bankruptcy Court to deny an exemption by "surcharging" the exempt property in response to the debtor's misconduct can coexist comfortably with § 522. The United States, appearing in support of Siegel, agrees, arguing that § 522 "neither gives debtors an absolute right to retain exempt property nor limits a court's authority to impose an equitable surcharge on such property." Brief for United States as *Amicus Curiae* 23.

Insofar as Siegel and the United States equate the Bankruptcy Court's surcharge with an outright denial of Law's homestead exemption, their arguments founder upon this case's procedural history. The Bankruptcy Appellate Panel stated that because no one "timely oppose[d] [Law]'s homestead exemption claim," the exemption "became final" *before* the Bankruptcy Court imposed the surcharge. 2009 WL 7751415, *2. We have held that a trustee's failure to make a timely objection prevents him from challenging an exemption. *Taylor* v. *Freeland & Kronz*, 503 U. S. 638, 643–644 (1992).

But even assuming the Bankruptcy Court could have revisited Law's entitlement to the exemption, § 522 does not give courts discretion to grant or withhold exemptions based on whatever considerations they deem appropriate. Rather, the statute exhaustively specifies the criteria that will ren-

der property exempt. See § 522(b), (d). Siegel insists that because § 522(b) says that the debtor "may exempt" certain property, rather than that he "*shall* be entitled" to do so, the court retains discretion to grant or deny exemptions even when the statutory criteria are met. But the subject of "may exempt" in § 522(b) is the debtor, not the court, so it is the debtor in whom the statute vests discretion. A debtor need not invoke an exemption to which the statute entitles him; but if he does, the court may not refuse to honor the exemption absent a valid statutory basis for doing so.

Moreover, § 522 sets forth a number of carefully calibrated exceptions and limitations, some of which relate to the debtor's misconduct. For example, § 522(c) makes exempt property liable for certain kinds of prepetition debts, including debts arising from tax fraud, fraud in connection with student loans, and other specified types of wrongdoing. Section 522(*o*) prevents a debtor from claiming a homestead exemption to the extent he acquired the homestead with nonexempt property in the previous 10 years "with the intent to hinder, delay, or defraud a creditor." And § 522(q) caps a debtor's homestead exemption at approximately $150,000 (but does not eliminate it entirely) where the debtor has been convicted of a felony that shows "that the filing of the case was an abuse of the provisions of" the Code, or where the debtor owes a debt arising from specified wrongful acts—such as securities fraud, civil violations of the Racketeer Influenced and Corrupt Organizations Act, or "any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years." § 522(q) and note following § 522. The Code's meticulous—not to say mind-numbingly detailed—enumeration of exemptions and exceptions to those exemptions confirms that courts are not authorized to create additional exceptions. See *Hillman* v. *Maretta*, 569 U. S. 483, 496 (2013); *TRW Inc.* v. *Andrews*, 534 U. S. 19, 28–29 (2001).

Siegel points out that a handful of courts have claimed authority to disallow an exemption (or to bar a debtor from amending his schedules to claim an exemption, which is much the same thing) based on the debtor's fraudulent concealment of the asset alleged to be exempt. See, *e. g.*, *In re Yonikus*, 996 F. 2d 866, 872–873 (CA7 1993); *In re Doan*, 672 F. 2d 831, 833 (CA11 1982) (*per curiam*); *Stewart* v. *Ganey*, 116 F. 2d 1010, 1011 (CA5 1940). He suggests that those decisions reflect a general, equitable power in bankruptcy courts to deny exemptions based on a debtor's bad-faith conduct. For the reasons we have given, the Bankruptcy Code admits no such power. It is of course true that when a debtor claims a *state-created* exemption, the exemption's scope is determined by state law, which may provide that certain types of debtor misconduct warrant denial of the exemption. *E. g.*, *In re Sholdan*, 217 F. 3d 1006, 1008 (CA8 2000); see 4 Collier on Bankruptcy ¶522.08[1]–[2], at 522–45 to 522–47. Some of the early decisions on which Siegel relies, and which the Fifth Circuit cited in *Stewart*, are instances in which federal courts applied state law to disallow state-created exemptions. See *In re Denson*, 195 F. 857, 858 (ND Ala. 1912); *Cowan* v. *Burchfield*, 180 F. 614, 619 (ND Ala. 1910); *In re Ansley Bros.*, 153 F. 983, 984 (EDNC 1907). But *federal law* provides no authority for bankruptcy courts to deny an exemption on a ground not specified in the Code.

C

Our decision in *Marrama* v. *Citizens Bank*, on which Siegel and the United States heavily rely, does not point toward a different result. The question there was whether a debtor's bad-faith conduct was a valid basis for a bankruptcy court to refuse to convert the debtor's bankruptcy from a liquidation under Chapter 7 to a reorganization under Chapter 13. Although § 706(a) of the Code gave the debtor a right to convert the case, § 706(d) "expressly conditioned" that right on the debtor's "ability to qualify as a 'debtor' under Chapter 13." 549 U. S., at 372. And § 1307(c) pro-

vided that a proceeding under Chapter 13 could be dismissed or converted to a Chapter 7 proceeding "for cause," which the Court interpreted to authorize dismissal or conversion for bad-faith conduct. In light of § 1307(c), the Court held that the debtor's bad faith could stop him from qualifying as a debtor under Chapter 13, thus preventing him from satisfying § 706(d)'s *express condition* on conversion. *Id.*, at 372–373. That holding has no relevance here, since no one suggests that Law failed to satisfy any express statutory condition on his claiming of the homestead exemption.

True, the Court in *Marrama* also opined that the Bankruptcy Court's refusal to convert the case was authorized under § 105(a) and might have been authorized under the court's inherent powers. *Id.*, at 375–376. But even that dictum does not support Siegel's position. In *Marrama*, the Court reasoned that if the case had been converted to Chapter 13, § 1307(c) would have required it to be either dismissed or reconverted to Chapter 7 in light of the debtor's bad faith. Therefore, the Court suggested, even if the Bankruptcy Court's refusal to convert the case had not been expressly authorized by § 706(d), that action could have been justified as a way of providing a "prompt, rather than a delayed, ruling on [the debtor's] unmeritorious attempt to qualify" under § 1307(c). *Id.*, at 376. At most, *Marrama*'s dictum suggests that in some circumstances a bankruptcy court may be authorized to dispense with futile procedural niceties in order to reach more expeditiously an end result required by the Code. *Marrama* most certainly did not endorse, even in dictum, the view that equitable considerations permit a bankruptcy court to contravene express provisions of the Code.

D

We acknowledge that our ruling forces Siegel to shoulder a heavy financial burden resulting from Law's egregious misconduct, and that it may produce inequitable results for trustees and creditors in other cases. We have recognized,

however, that in crafting the provisions of § 522, "Congress balanced the difficult choices that exemption limits impose on debtors with the economic harm that exemptions visit on creditors." *Schwab* v. *Reilly*, 560 U. S. 770, 791 (2010). The same can be said of the limits imposed on recovery of administrative expenses by trustees. For the reasons we have explained, it is not for courts to alter the balance struck by the statute. Cf. *Guidry* v. *Sheet Metal Workers Nat. Pension Fund*, 493 U. S. 365, 376–377 (1990).

* * *

Our decision today does not denude bankruptcy courts of the essential "authority to respond to debtor misconduct with meaningful sanctions." Brief for United States as *Amicus Curiae* 17. There is ample authority to deny the dishonest debtor a discharge. See § 727(a)(2)–(6). (That sanction lacks bite here, since by reason of a postpetition settlement between Siegel and Law's major creditor, Law has no debts left to discharge; but that will not often be the case.) In addition, Federal Rule of Bankruptcy Procedure 9011—bankruptcy's analogue to Civil Rule 11—authorizes the court to impose sanctions for bad-faith litigation conduct, which may include "an order directing payment . . . of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation." Fed. Rule Bkrtcy. Proc. 9011(c)(2). The court may also possess further sanctioning authority under either § 105(a) or its inherent powers. Cf. *Chambers*, 501 U. S., at 45–49. And because it arises postpetition, a bankruptcy court's monetary sanction survives the bankruptcy case and is thereafter enforceable through the normal procedures for collecting money judgments. See § 727(b). Fraudulent conduct in a bankruptcy case may also subject a debtor to criminal prosecution under 18 U. S. C. § 152, which carries a maximum penalty of five years' imprisonment.

But whatever other sanctions a bankruptcy court may impose on a dishonest debtor, it may not contravene express

provisions of the Bankruptcy Code by ordering that the debtor's exempt property be used to pay debts and expenses for which that property is not liable under the Code.

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

It is so ordered.

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LAWSON ET AL. *v.* FMR LLC ET AL.

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

No. 12–3. Argued November 12, 2013—Decided March 4, 2014

To safeguard investors in public companies and restore trust in the financial markets following the collapse of Enron Corporation, Congress passed the Sarbanes-Oxley Act of 2002. One of the Act's provisions protects whistleblowers; at the time relevant here, that provision instructed: "No [public] company . . . , or any . . . contractor [or] subcontractor . . . of such company, may discharge, demote, suspend, threaten, harass, or . . . discriminate against an employee in the terms and conditions of employment because of [whistleblowing activity]." 18 U. S. C. § 1514A(a).

Plaintiffs below, petitioners here, are former employees of respondents (collectively FMR), private companies that contract to advise or manage mutual funds. As is common in the industry, the mutual funds served by FMR are public companies with no employees. Both plaintiffs allege that they blew the whistle on putative fraud relating to the mutual funds and, as a consequence, suffered retaliation by FMR. Each commenced suit in federal court. Moving to dismiss the suits, FMR argued that the plaintiffs could state no claim under § 1514A, for that provision protects only employees of public companies, and not employees of private companies that contract with public companies. On interlocutory appeal from the District Court's denial of FMR's motion to dismiss, the First Circuit reversed, concluding that the term "an employee" in § 1514A(a) refers only to employees of public companies.

Held: The judgment is reversed and the case is remanded.

670 F. 3d 61, reversed and remanded.

JUSTICE GINSBURG delivered the opinion of the Court, concluding that § 1514A's whistleblower protection includes employees of a public company's private contractors and subcontractors. Pp. 440–459.

(a) This reading of § 1514A is supported by the provision's text. Pp. 440–447.

(1) The Court looks first to the ordinary meaning of the provision's language. See *Moskal* v. *United States*, 498 U. S. 103, 108. As relevant here, § 1514A(a) provides that "no . . . contractor . . . may discharge . . . an employee." The ordinary meaning of "an employee" in this proscription is the contractor's own employee. FMR's "narrower construction" requires inserting "of a public company" after "an employee," but where Congress meant "an employee of a public company," it said so.

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The provision as a whole supports this reading. The prohibited retaliatory measures enumerated in § 1514A(a)—discharge, demotion, suspension, threats, harassment, or discrimination in employment terms and conditions—are actions an employer takes against its own employees. Contractors are not ordinarily positioned to take adverse actions against employees of the public company with whom they contract. FMR's interpretation of § 1514A, therefore, would shrink to insignificance the provision's ban on retaliation by contractors. The protected activity covered by § 1514A, and the provision's enforcement procedures and remedies, also indicate that Congress presumed an employer-employee relationship between the retaliator and the whistleblowing employee. Pp. 440–445.

(2) FMR's textual arguments are unpersuasive. It urges that "an employee" must be read to refer exclusively to public company employees to avoid the absurd result of extending protection to the personal employees of company officers and employees, *e. g.*, their housekeepers or gardeners. This concern appears more theoretical than real and, in any event, is outweighed by the compelling arguments opposing FMR's reading of § 1514A. FMR also urges that its reading is supported by the provision's statutory headings, but those headings are "not meant to take the place of the detailed provisions of the text." *Trainmen* v. *Baltimore & Ohio R. Co.*, 331 U. S. 519, 528. Pp. 445–447.

(b) Other considerations support the Court's textual analysis. Pp. 447–457.

(1) The Court's reading fits § 1514A's aim to ward off another Enron debacle. The legislative record shows Congress' understanding that outside professionals bear significant responsibility for reporting fraud by the public companies with whom they contract, and that fear of retaliation was the primary deterrent to such reporting by the employees of Enron's contractors. Sarbanes-Oxley contains numerous provisions designed to control the conduct of accountants, auditors, and lawyers who work with public companies, but only § 1514A affords such employees protection from retaliation by their employers for complying with the Act's reporting requirements. Pp. 447–450.

(2) This Court's reading of § 1514A avoids insulating the entire mutual fund industry from § 1514A. Virtually all mutual funds are structured so that they have no employees of their own; they are managed, instead, by independent investment advisors. Accordingly, the "narrower construction" endorsed by FMR would leave § 1514A with no application to mutual funds. The Court's reading of § 1514A, in contrast, protects the employees of investment advisors, who are often the only firsthand witnesses to shareholder fraud involving mutual funds. Pp. 450–452.

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(3) There is scant evidence that today's decision will open any floodgates for whistleblowing suits outside § 1514A's purposes. The Department of Labor's regulations have interpreted § 1514A as protecting contractor employees for almost a decade, yet FMR is unable to identify a single case in which the employee of a private contractor has asserted a § 1514A claim based on allegations unrelated to shareholder fraud. Plaintiffs and the Solicitor General suggest various limiting principles to dispel any overbreadth problems. This Court need not determine § 1514A's bounds here, however, because, if plaintiffs' allegations prove true, plaintiffs are precisely the "firsthand witnesses to [the shareholder] fraud" Congress anticipated § 1514A would protect. S. Rep. No. 107–146, p. 10. Pp. 452–454.

(4) The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act does not affect this Court's task of determining whether Congress in 2002 afforded protection to whistleblowing contractor employees. Pp. 454–457.

(c) The 2000 Wendell H. Ford Aviation Investment and Reform Act for the 21st Century's whistleblower protection provision has been read to cover, in addition to employees of air carriers, employees of contractors and subcontractors of the carriers. Given the parallel statutory texts and whistleblower protective aims, the Court reads the words "an employee" in AIR 21 and in § 1514A to have similar import. Pp. 457–459.

JUSTICE SCALIA, joined by JUSTICE THOMAS, relying only on 18 U. S. C. § 1514A's text and broader context, agreed that § 1514A protects employees of private contractors from retaliation when they report covered forms of fraud. Pp. 459–461.

GINSBURG, J., delivered the opinion of the Court, in which ROBERTS, C. J., and BREYER and KAGAN, JJ., joined, and in which SCALIA and THOMAS, JJ., joined in principal part. SCALIA, J., filed an opinion concurring in principal part and concurring in the judgment, in which THOMAS, J., joined, *post*, p. 459. SOTOMAYOR, J., filed a dissenting opinion, in which KENNEDY and ALITO, JJ., joined, *post*, p. 461.

Eric Schnapper argued the cause for petitioners. With him on the briefs were *Indira Talwani* and *Kevin G. Powers*.

Nicole A. Saharsky argued the cause for the United States as *amicus curiae* urging reversal. With her on the brief were *Solicitor General Verrilli*, *Deputy Solicitor General Kneedler*, *M. Patricia Smith*, *Mary J. Rieser*, *Michael A. Conley*, *Richard M. Humes*, and *Thomas J. Karr*.

Mark A. Perry argued the cause for respondents. With him on the brief were *Porter N. Wilkinson*, *Geoffrey C. Weien*, *Rachel S. Brass*, *Stephen M. Shapiro*, and *Timothy S. Bishop*.*

JUSTICE GINSBURG delivered the opinion of the Court.

To safeguard investors in public companies and restore trust in the financial markets following the collapse of Enron Corporation, Congress enacted the Sarbanes-Oxley Act of 2002, 116 Stat. 745. See S. Rep. No. 107–146, pp. 2–11 (2002). A provision of the Act, 18 U. S. C. § 1514A, protects whistleblowers. Section 1514A, at the time here relevant, instructed:

> "No [public] company . . . , or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of [whistleblowing or other protected activity]." § 1514A(a) (2006 ed.).

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*Briefs of *amici curiae* urging affirmance were filed for the Chamber of Commerce of the United States of America by *Willis J. Goldsmith*, *Wendy C. Butler*, and *Rachel Brand*; for the Equal Employment Advisory Council by *Rae T. Vann* and *Ann Elizabeth Reesman*; for Former SEC Officials by *T. Peter R. Pound* and *Michael C. Moran*; for the Investment Company Institute by *G. Eric Brunstad, Jr.*, *Alexander R. Bilus*, *Paul Schott Stevens*, and *Tamara K. Salmon*; for the National Federation of Independent Business Small Business Legal Center by *Scott A. Coffina*, *Karen R. Harned*, *Elizabeth Milito*, and *Mark H. M. Sosnowsky*; for the New England Legal Foundation et al. by *Benjamin G. Robbins* and *Martin J. Newhouse*; for the Securities Industry and Financial Markets Association by *Michael Delikat*, *Richard Bierschbach*, and *Kevin Carroll*; and for the Society for Human Resource Management by *Gregory C. Keating* and *Stephen T. Melnick*.

Briefs of *amici curiae* were filed for the National Employment Lawyers Association et al. by *R. Scott Oswald* and *Richard R. Renner*; and for the National Whistleblower Center by *Stephen M. Kohn* and *David K. Colapinto*.

This case concerns the definition of the protected class: Does § 1514A shield only those employed by the public company itself, or does it shield as well employees of privately held contractors and subcontractors—for example, investment advisers, law firms, accounting enterprises—who perform work for the public company?

We hold, based on the text of § 1514A, the mischief to which Congress was responding, and earlier legislation Congress drew upon, that the provision shelters employees of private contractors and subcontractors, just as it shelters employees of the public company served by the contractors and subcontractors. We first summarize our principal reasons, then describe this controversy and explain our decision more comprehensively.

Plaintiffs below, petitioners here, are former employees of private companies that contract to advise or manage mutual funds. The mutual funds themselves are public companies that have no employees. Hence, if the whistle is to be blown on fraud detrimental to mutual fund investors, the whistleblowing employee must be on another company's payroll, most likely, the payroll of the mutual fund's investment adviser or manager.

Taking the allegations of the complaint as true, both plaintiffs blew the whistle on putative fraud relating to the mutual funds and, as a consequence, suffered adverse action by their employers. Plaintiffs read § 1514A to convey that "[n]o . . . contractor . . . may . . . discriminate against [its own] employee [for whistleblowing]." We find that reading consistent with the text of the statute and with common sense. Contractors are in control of their own employees, but are not ordinarily positioned to control someone else's workers. Moreover, we resist attributing to Congress a purpose to stop a contractor from retaliating against whistleblowers employed by the public company the contractor serves, while leaving the contractor free to retaliate against its own employees when they reveal corporate fraud.

In the Enron scandal that prompted the Sarbanes-Oxley Act, contractors and subcontractors, including the accounting firm Arthur Andersen, participated in Enron's fraud and its coverup. When employees of those contractors attempted to bring misconduct to light, they encountered retaliation by their employers. The Sarbanes-Oxley Act contains numerous provisions aimed at controlling the conduct of accountants, auditors, and lawyers who work with public companies. See, *e. g.*, §§ 101–107, 203–206, 307, 116 Stat. 750–768, 773–775, 784. Given Congress' concern about contractor conduct of the kind that contributed to Enron's collapse, we regard with suspicion construction of § 1514A to protect whistleblowers only when they are employed by a public company, and not when they work for the public company's contractor.

Congress borrowed § 1514A's prohibition against retaliation from the wording of the 2000 Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), 49 U. S. C. § 42121. That Act provides: "No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment" when the employee provides information regarding violations "relating to air carrier safety" to his or her employer or federal authorities. § 42121(a)(1). AIR 21 has been read to cover, in addition to employees of air carriers, employees of contractors and subcontractors of the carriers. Given the parallel statutory texts and whistleblower protective aims, we read the words "an employee" in AIR 21 and in § 1514A to have similar import.

I

A

The Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley or Act) aims to "prevent and punish corporate and criminal fraud, protect the victims of such fraud, preserve evidence of such fraud, and hold wrongdoers accountable for their actions."

S. Rep. No. 107–146, p. 2 (2002) (hereinafter S. Rep.).[1] Of particular concern to Congress was abundant evidence that Enron had succeeded in perpetuating its massive shareholder fraud in large part due to a "corporate code of silence"; that code, Congress found, "discourage[d] employees from reporting fraudulent behavior not only to the proper authorities, such as the FBI and the SEC, but even internally." *Id.*, at 4–5 (internal quotation marks omitted). When employees of Enron and its accounting firm, Arthur Andersen, attempted to report corporate misconduct, Congress learned, they faced retaliation, including discharge. As outside counsel advised company officials at the time, Enron's efforts to "quiet" whistleblowers generally were not proscribed under then-existing law. *Id.*, at 5, 10. Congress identified the lack of whistleblower protection as "a significant deficiency" in the law, for in complex securities fraud investigations, employees "are [often] the only firsthand witnesses to the fraud." *Id.*, at 10.

Section 806 of Sarbanes-Oxley addresses this concern. Titled "Protection for Employees of Publicly Traded Companies Who Provide Evidence of Fraud," § 806 added a new provision to Title 18 of the United States Code, 18 U. S. C. § 1514A, which reads in relevant part:

> "**Civil action to protect against retaliation in fraud cases**
>
> "(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with

[1] Title VIII of the Act, which contains the whistleblower protection provision at issue in this case, was authored by Senators Leahy and Grassley and originally constituted a discrete bill, S. 2010, 107th Cong., 2d Sess. (2002). We thus look to the Senate Report for S. 2010, S. Rep. No. 107–146, as the Senate Report relevant here. See 148 Cong. Rec. 14447–14448 (2002) (statement of Sen. Leahy) ("unanimous consent" to "includ[e] in the CONGRESSIONAL RECORD as part of the official legislative history" of Sarbanes-Oxley that Title VIII's "terms track almost exactly the provisions of S. 2010, introduced by Senator Leahy and reported unanimously from the Committee on the Judiciary").

> a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U. S. C. § 78*l*), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U. S. C. § 78*o*(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—
>
> "(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341 [mail fraud], 1343 [wire fraud], 1344 [bank fraud], or 1348 [securities or commodities fraud], any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by [a federal agency, Congress, or supervisor] . . . ." § 806, 116 Stat. 802.[2]

Congress has assigned whistleblower protection largely to the Department of Labor (DOL), which administers some 20 United States Code incorporated whistleblower protection provisions. See 78 Fed. Reg. 3918 (2013). The Secretary has delegated investigatory and initial adjudicatory responsibility over claims under a number of these provisions, including § 1514A, to DOL's Occupational Safety and Health Administration (OSHA). *Ibid.* OSHA's order may be ap-

[2] As discussed *infra*, at 454–457, Congress amended § 1514A in 2010 to extend whistleblower coverage to employees of public companies' subsidiaries and nationally recognized statistical ratings organizations. 124 Stat. 1848. Plaintiffs do not fall in either category and, in any event, their claims are governed by the prior version of § 1514A. Unless otherwise noted, all citations to § 1514A are to the original text in the 2006 edition of the United States Code.

pealed to an administrative law judge, and then to DOL's Administrative Review Board (ARB). 29 CFR §§ 1980.104 to 1980.110 (2011).

In common with other whistleblower protection provisions enforced by DOL, see 77 Fed. Reg. 3912 (2012), the ARB's determination on a § 1514A claim constitutes the agency's final decision and is reviewable in federal court under the standards stated in the Administrative Procedure Act, 5 U. S. C. § 706. If, however, the ARB does not issue a final decision within 180 days of the filing of the complaint, and the delay is not due to bad faith on the claimant's part, the claimant may proceed to federal district court for *de novo* review. 18 U. S. C. § 1514A(b). An employee prevailing in a proceeding under § 1514A is entitled to "all relief necessary to make the employee whole," including "reinstatement with the same seniority status that the employee would have had, but for the discrimination," backpay with interest, and compensation for litigation costs. § 1514A(c).

Congress modeled § 1514A on the antiretaliation provision of AIR 21, 49 U. S. C. § 42121, a measure enacted two years earlier. See S. Rep., at 30 (corporate whistleblower protections "track [AIR 21's] protections as closely as possible"). Section 1514A incorporates by cross-reference AIR 21's administrative enforcement procedures. 18 U. S. C. § 1514A(b)(2).

B

Petitioners Jackie Hosang Lawson and Jonathan M. Zang (plaintiffs) separately initiated proceedings under § 1514A against their former employers, privately held companies that provide advisory and management services to the Fidelity family of mutual funds. The Fidelity funds are not parties to either case; as is common in the mutual fund industry, the Fidelity funds themselves have no employees. Instead, they contract with investment advisers like respondents to handle their day-to-day operations, which include making investment decisions, preparing reports for shareholders, and

filing reports with the Securities and Exchange Commission (SEC). Lawson was employed by Fidelity Brokerage Services, LLC, a subsidiary of FMR Corp., which was succeeded by FMR LLC. Zang was employed by a different FMR LLC subsidiary, Fidelity Management & Research Co., and later by one of that company's subsidiaries, FMR Co., Inc. For convenience, we refer to respondents collectively as FMR.

Lawson worked for FMR for 14 years, eventually serving as a Senior Director of Finance. She alleges that, after she raised concerns about certain cost accounting methodologies, believing that they overstated expenses associated with operating the mutual funds, she suffered a series of adverse actions, ultimately amounting to constructive discharge. Zang was employed by FMR for eight years, most recently as a portfolio manager for several of the funds. He alleges that he was fired in retaliation for raising concerns about inaccuracies in a draft SEC registration statement concerning certain Fidelity funds. Lawson and Zang separately filed administrative complaints alleging retaliation proscribed by § 1514A. After expiration of the 180-day period specified in § 1514A(b)(1), Lawson and Zang each filed suit in the U. S. District Court for the District of Massachusetts.

FMR moved to dismiss the suits, arguing, as relevant, that neither plaintiff has a claim for relief under § 1514A. FMR is privately held, and maintained that § 1514A protects only employees of public companies—*i. e.*, companies that either have "a class of securities registered under section 12 of the Securities Exchange Act of 1934," or that are "required to file reports under section 15(d)" of that Act. § 1514A(a).[3] In a joint order, the District Court rejected FMR's interpretation of § 1514A and denied the dismissal motions in both suits. 724 F. Supp. 2d 141 (Mass. 2010).

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[3] Here, as just noted, the public company has no employees. See *supra*, at 433.

On interlocutory appeal, a divided panel of the First Circuit reversed. 670 F. 3d 61 (2012). The Court of Appeals majority acknowledged that FMR is a "contractor"[4] within the meaning of § 1514A(a), and thus among the actors prohibited from retaliating against "an employee" who engages in protected activity. The majority agreed with FMR, however, that "an employee" refers only to employees of public companies and does not cover a contractor's own employees. *Id.*, at 68–80. Judge Thompson dissented. In her view, the majority had "impose[d] an unwarranted restriction on the intentionally broad language of the Sarbanes-Oxley Act" and "bar[red] a significant class of potential securities-fraud whistleblowers from any legal protection." *Id.*, at 83.

Several months later, the ARB issued a decision in an unrelated case, *Spinner* v. *David Landau & Assoc., LLC*, No. 10–111 etc., ALJ No. 2010–SOX–029 (May 31, 2012),[5] disagreeing with the Court of Appeals' interpretation of § 1514A. In a comprehensive opinion, the ARB explained its position that § 1514A affords whistleblower protection to employees of privately held contractors that render services to public companies. *Ibid.*[6]

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[4] As § 1514A treats contractors and subcontractors identically, we generally refer simply to "contractors" without distinguishing between the two.

[5] The whistleblower in *Spinner* was an employee of an accounting firm that provided auditing, consulting, and Sarbanes-Oxley compliance services to a public company.

[6] The dissent maintains that the ARB's interpretation of § 1514A is not entitled to deference because, "if any agency has the authority to resolve ambiguities in § 1514A with the force of law, it is the SEC, not the Department of Labor." *Post*, at 477. Because we agree with the ARB's conclusion that § 1514A affords protection to a contractor's employees, we need not decide what weight that conclusion should carry. We note, however, that the SEC apparently does not share the dissent's view that it, rather than DOL, has interpretive authority over § 1514A. To the contrary, the SEC is a signatory to the Government's brief in this case, which takes the position that Congress has charged the Secretary of Labor with interpreting § 1514A. Brief for United States as *Amicus Curiae* 9–11, 31–34. That view is hardly surprising given the lead role played by DOL in ad-

We granted certiorari, 569 U. S. 993 (2013), to resolve the division of opinion on whether § 1514A extends whistleblower protection to employees of privately held contractors who perform work for public companies.

II

A

In determining the meaning of a statutory provision, "we look first to its language, giving the words used their ordinary meaning." *Moskal* v. *United States*, 498 U. S. 103, 108 (1990) (citation and internal quotation marks omitted). As Judge Thompson observed in her dissent from the Court of Appeals' judgment, "boiling [§ 1514A(a)] down to its relevant syntactic elements, it provides that 'no . . . contractor . . . may discharge . . . an employee.'" 670 F. 3d, at 84 (quoting § 1514A(a)). The ordinary meaning of "an employee" in this proscription is the contractor's own employee.

FMR's interpretation of the text requires insertion of "of a public company" after "an employee." But where Congress meant "an employee of a public company," it said so: With respect to the actors governed by § 1514A, the provision's interdictions run to the officers, employees, contractors, subcontractors, and agents "of such company," *i. e.*, a public company. § 1514A(a). Another antiretaliation provision in Sarbanes-Oxley provides: "[A] broker or dealer and persons employed by a broker or dealer who are involved with investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst *employed by that broker or dealer or its affiliates* . . . ." 15 U. S. C. § 78*o*–6(a)(1)(C) (emphasis added). In contrast, noth-

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ministering whistleblower statutes. See *supra*, at 436–437. The dissent observes that the SEC "has not issued a regulation applying § 1514A whistleblower protection to employees of public company contractors," *post*, at 477, but omits to inform that the SEC has not promulgated *any* regulations interpreting § 1514A, consistent with its view that Congress delegated that responsibility to DOL.

ing in § 1514A's language confines the class of employees protected to those of a designated employer. Absent any textual qualification, we presume the operative language means what it appears to mean: A contractor may not retaliate against its own employee for engaging in protected whistleblowing activity.[7]

Section 1514A's application to contractor employees is confirmed when we enlarge our view from the term "an employee" to the provision as a whole. The prohibited retaliatory measures enumerated in § 1514A(a)—discharge, demotion, suspension, threats, harassment, or discrimination in the terms and conditions of employment—are commonly actions an employer takes against its *own* employees. Contractors are not ordinarily positioned to take adverse actions against employees of the public company with whom they contract. FMR's interpretation of § 1514A, therefore, would shrink to insignificance the provision's ban on retaliation by contractors. The dissent embraces FMR's "narrower" construction. See *post*, at 462, 463, 464, 467.

FMR urges that Congress included contractors in § 1514A's list of governed actors simply to prevent public companies from avoiding liability by employing contractors to effectuate retaliatory discharges. FMR describes such a contractor as an "ax-wielding specialist," illustrated by George Clooney's character in the movie Up in the Air.[8] Brief for Respondents 24–25 (internal quotation marks omitted). As portrayed by Clooney, an ax-wielding specialist is a contractor engaged only as the bearer of the bad news that the employee has been fired; he plays no role in deciding

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[7] We need not decide in this case whether § 1514A also prohibits a contractor from retaliating against an employee of one of the other actors governed by the provision.

[8] This hypothetical originates in a Seventh Circuit opinion, *Fleszar* v. *United States Dept. of Labor*, 598 F. 3d 912, 915 (2010), and is mentioned in a footnote in the First Circuit's opinion in this case, 670 F. 3d 61, 69, n. 11 (2012).

who to terminate. If the company employing the ax-wielder chose the recipients of the bad tidings for retaliatory reasons, the § 1514A claim would properly be directed at the company. Hiring the ax-wielder would not insulate the company from liability. Moreover, we see no indication that retaliatory ax-wielding specialists are the real-world problem that prompted Congress to add contractors to § 1514A.[9]

Moving further through § 1514A to the protected activity described in subsection (a)(1), we find further reason to believe that Congress presumed an employer-employee relationship between the retaliator and the whistleblower. Employees gain protection for furnishing information to a federal agency, Congress, or "a person with supervisory authority over *the employee* (or such other person working for *the employer* who has the authority to investigate, discover, or terminate misconduct)." § 1514A(a)(1)(C) (emphasis added). And under § 1514A(a)(2), employees are protected from retaliation for assisting "in a proceeding filed or about to be filed (*with any knowledge of the employer*) relating to an alleged violation" of any of the enumerated fraud provisions, securities regulations, or other federal law relating to shareholder fraud. § 1514A(a)(2) (emphasis added).

[9] When asked during oral argument for an example of actual circumstances in which a contractor would have employment decisionmaking authority over public company employees, FMR's counsel cited *Kalkunte* v. *DVI Financial Servs., Inc.*, No. 05–139 etc., ALJ No. 2004–SOX–056 (Feb. 27, 2009). Tr. of Oral Arg. 33. That case involved a bankrupt public company that hired a private company to handle its dissolution. The ARB found the private company liable under § 1514A because it acted as a "contractor, subcontractor, *or agent*" of the public company in discharging the claimant. ALJ No. 2004–SOX–056, at 10 (emphasis added). Neither FMR nor its *amici* have pointed us to any actual situation in which a public company employee would be vulnerable to retaliatory conduct by a contractor not already covered as an "agent" under § 1514A. Notably, even in *Tides* v. *Boeing Co.*, 644 F. 3d 809 (CA9 2011), the case cited by the dissent for the proposition that contractors may possess "managerial authority" over public company employees, *post*, at 469, the alleged retaliation was by the public company itself.

The reference to employer knowledge is an additional indicator of Congress' expectation that the retaliator typically will be the employee's employer, not another entity less likely to know of whistleblower complaints filed or about to be filed.

Section 1514A's enforcement procedures and remedies similarly contemplate that the whistleblower is an employee of the retaliator. As earlier noted, see *supra*, at 437, § 1514A(b)(2)(A) provides that a claim under § 1514A "shall be governed under the rules and procedures set forth in section 42121(b) of title 49," *i. e.*, AIR 21's antiretaliation provision. Throughout § 42121(b), the respondent is referred to as "the employer." See 49 U. S. C. § 42121(b)(2)(B)(ii) (The Secretary shall not conduct an investigation into a retaliation claim "if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior."); § 42121(b)(2)(B)(iv) ("Relief may not be ordered . . . if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.").

Regarding remedies, § 1514A(c)(2) states that a successful claimant shall be entitled to "reinstatement with the same seniority status that the employee would have had, but for the discrimination," as well as "the amount of back pay, with interest." As the Solicitor General, for the United States as *amicus curiae*, observed, "It is difficult, if not impossible, to see how a contractor or subcontractor could provide those remedies to an employee of a public company." Brief for United States 15. The most sensible reading of § 1514A's numerous references to an employer-employee relationship between the respondent and the claimant is that the provision's protections run between contractors and their own employees.

Remarkably, the dissent attributes to Congress a strange design. Under the dissent's "narrower" construction, *post*, at 462, 463, 464, 467, a public company's contractor may not

retaliate against a public company's employees, academic here because the public company has no employees. According to the dissent, this coverage is necessary to prevent "a gaping hole" that would allow public companies to "evade § 1514A simply by hiring a contractor to engage in the very retaliatory acts that an officer or employee could not." *Post*, at 470. This cannot be right—even if Congress had omitted any reference to contractors, subcontractors, or agents in § 1514A, the remaining language surely would prohibit a public company from directing someone else to engage in retaliatory conduct against the public company's employees; hiring an ax-wielder to announce an employee's demotion does not change the fact that the public company is the entity commanding the demotion. Under the dissent's reading of § 1514A, the inclusion of contractors as covered employers does no more than make the contractor secondarily liable for complying with such marching orders—hardly a hole at all.[10]

There would be a huge hole, on the other hand, were the dissent's view of § 1514A's reach to prevail: Contractors' employees would be disarmed; they would be vulnerable to retaliation by their employers for blowing the whistle on a scheme to defraud the public company's investors, even a scheme engineered entirely by the contractor. Not only would mutual fund advisers and managers escape § 1514A's control. Legions of accountants and lawyers would be denied § 1514A's protections. See *infra*, at 450–452. Instead of indulging in fanciful visions of whistleblowing babysitters and the like, *post*, at 462, 466, 472–473, 479, the dissent might pause to consider whether a Congress, prompted by the Enron deba-

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[10] The dissent suggests that we "fai[l] to recognize" that its construction also makes contractors primarily liable for retaliating of their own volition against employees of public companies. *Post*, at 470, n. 6. As explained *supra*, at 442, n. 9, however, FMR and its supporters have identified not even one real-world instance of a public company employee asserting a § 1514A claim alleging retaliatory conduct by a contractor. Again, no "gaping hole," practically no hole at all.

cle, would exclude from whistleblower protection countless professionals equipped to bring fraud on investors to a halt.

B

We turn next to two textual arguments made by FMR. First, FMR urges that "an employee" must be read to refer exclusively to public company employees to avoid the absurd result of extending protection to the personal employees of company officers and employees, *e. g.*, their housekeepers or gardeners. See Brief for Respondents 19–20; *post*, at 461–463, 466, 472–473, 479. Plaintiffs and the Solicitor General do not defend § 1514A's application to personal employees. They argue, instead, that the prohibition against an "officer" or "employee" retaliating against "an employee" may be read as imposing personal liability only on officers and employees who retaliate against other public company employees. Brief for Petitioners 12; Brief for United States as *Amicus Curiae* 16.[11] FMR calls this reading "bizarre," for it would ascribe to the words "an employee" in § 1514A(a) "one meaning if the respondent is an 'officer' and a different meaning if the respondent is a 'contractor.'" Brief for Respondents 20–21.

We agree with FMR that plaintiffs and the Solicitor General offer an interpretation at odds with the text Congress enacted. If, as we hold, "an employee" includes employees of contractors, then grammatically, the term also includes employees of public company officers and employees. Nothing suggests Congress' attention was drawn to the curiosity its drafting produced. The issue, however, is likely more theoretical than real. Few housekeepers or gardeners, we

[11] The ARB endorsed this view in *Spinner* v. *David Landau & Assoc., LLC*, No. 10–111 etc., ALJ No. 2010–SOX–029, p. 8 (May 31, 2012). We have no occasion to determine whether the ARB would be entitled to deference in this regard, for, as explained in text, we find that the statutory text unambiguously affords protection to personal employees of public company officers and employees. § 1514A(a).

suspect, are likely to come upon and comprehend evidence of their employer's complicity in fraud. In any event, FMR's point is outweighed by the compelling arguments opposing FMR's contention that "an employee" refers simply and only to public company employees. See *supra*, at 440–445. See also *infra*, at 453–454 (limiting principles may serve as check against overbroad applications).

Second, FMR argues that the statutory headings support the exclusion of contractor employees from § 1514A's protections. Although § 1514A's own heading is broad ("Civil action to protect against retaliation in fraud cases"), subsection (a) is captioned "Whistleblower Protection for Employees of Publicly Traded Companies." Similarly, the relevant public law section, § 806 of Sarbanes-Oxley, is captioned "Protection for Employees of Publicly Traded Companies Who Provide Evidence of Fraud." 116 Stat. 802. The Court of Appeals described the latter two headings as "explicit guides" limiting protection under § 1514A to employees of public companies. 670 F. 3d, at 69.

This Court has placed less weight on captions. In *Trainmen* v. *Baltimore & Ohio R. Co.*, 331 U. S. 519 (1947), we explained that where, as here, "the [statutory] text is complicated and prolific, headings and titles can do no more than indicate the provisions in a most general manner." *Id.*, at 528. The underinclusiveness of the two headings relied on by the Court of Appeals is apparent. The provision indisputably extends protection to employees of companies that file reports with the SEC pursuant to § 15(d) of the 1934 Act, even when such companies are not "publicly traded." And the activity protected under § 1514A is not limited to "provid[ing] evidence of fraud"; it also includes reporting violations of SEC rules or regulations. § 1514A(a)(1). As in *Trainmen*, the headings here are "but a short-hand reference to the general subject matter" of the provision, "not meant to take the place of the detailed provisions of the text." 331 U. S., at 528. Section 1514A is attended by numerous indi-

cators that the statute's prohibitions govern the relationship between a contractor and its own employees; we do not read the headings to "undo or limit" those signals. *Id.*, at 529.[12]

III

A

Our textual analysis of § 1514A fits the provision's purpose. It is common ground that Congress installed whistleblower protection in the Sarbanes-Oxley Act as one means to ward off another Enron debacle. S. Rep., at 2–11. And, as the ARB observed in *Spinner*, "Congress plainly recognized that outside professionals—accountants, law firms, contractors, agents, and the like—were complicit in, if not integral to, the shareholder fraud and subsequent cover-up [Enron] officers . . . perpetrated." ALJ No. 2010–SOX–029, at 12–13. Indeed, the Senate Report demonstrates that Congress was as focused on the role of Enron's outside contractors in facilitating the fraud as it was on the actions of Enron's own officers. See, *e. g.*, S. Rep., at 3 (fraud "occurred with extensive participation and structuring advice from Arthur Andersen . . . which was simultaneously serving as both consultant and independent auditor for Enron" (internal quotation marks and brackets omitted)); *id.*, at 4 ("professionals from accounting firms, law firms and business consulting firms, who were paid millions to advise Enron on these practices, assured others that Enron was a solid investment"); *id.*, at 4–5 (team of Andersen employees were tasked with destroying "physical evidence and documents" relating to Enron's fraud); *id.*, at 5 ("Enron and Andersen were taking advantage of a system that allowed them to behave in an apparently fraudulent manner"); *id.*, at 11 (Enron's fraud partly attributable to "the

[12] AIR 21's antiretaliation provision, on which § 1514A is based, includes a similarly composed heading, "Discrimination against airline employees." 49 U. S. C. § 42121(a). Nevertheless, that provision has been read to cover employees of companies rendering contract services to airlines. See *infra*, at 457–459.

well-paid professionals who helped create, carry out, and cover up the complicated corporate ruse when they should have been raising concerns"); *id.*, at 20–21 ("Enron's accountants and lawyers brought all their skills and knowledge to bear in assisting the fraud to succeed and then in covering it up.").

Also clear from the legislative record is Congress' understanding that outside professionals bear significant responsibility for reporting fraud by the public companies with whom they contract, and that fear of retaliation was the primary deterrent to such reporting by the employees of Enron's contractors. Congressional investigators discovered ample evidence of contractors demoting or discharging employees they have engaged who jeopardized the contractor's business relationship with Enron by objecting to Enron's financial practices. See, *e. g.*, Oppel, Merrill Replaced Research Analyst Who Upset Enron, N. Y. Times, July 30, 2002, p. A1 ("In the summer of 1998, when it was eager to win more investment banking business from Enron, Merrill Lynch replaced a research analyst who had angered Enron executives by rating the company's stock 'neutral' with an analyst who soon upgraded the rating, according to Congressional investigators."); Yost, Andersen Whistleblower Was Removed, Associated Press (Apr. 3, 2002) (congressional investigation reveals that Andersen removed one of its partners from its Enron team after Enron officials expressed unhappiness with the partner's questioning of certain accounting practices); Oppel, The Man Who Paid the Price for Sizing up Enron, N. Y. Times, Mar. 27, 2002, p. C1 ("Enron executives pressed UBS PaineWebber to take action against a broker who advised some Enron employees to sell their shares in August and was fired by the brokerage firm within hours of the complaint, according to e-mail messages released today by Congressional investigators.").

In the same vein, two of the four examples of whistleblower retaliation recounted in the Senate Report involved

outside professionals retaliated against by their own employers. S. Rep., at 5 (on Andersen and UBS Paine-Webber employees); see also *id.*, at 4–5 (Andersen employees who "attempted to report or 'blow the whistle' on [Enron's] fraud . . . were discouraged at nearly every turn"). Emphasizing the importance of outside professionals as "gatekeepers who detect and deter fraud," the Senate Report concludes: "Congress must reconsider the incentive system that has been set up that encourages accountants and lawyers who come across fraud in their work to remain silent." *Id.*, at 20–21. From this legislative history, one can safely conclude that Congress enacted § 1514A aiming to encourage whistleblowing by contractor employees who suspect fraud involving the public companies with whom they work.[13]

FMR argues that Congress addressed its concerns about the role of outside accountants and lawyers in facilitating Enron's wrongdoing, not in § 1514A, but exclusively in other provisions of Sarbanes-Oxley "*directly* regulat[ing] accountants and lawyers." Brief for Respondents 40. In particular, FMR points to sections of the Act requiring accountants and lawyers for public companies to investigate and report misconduct, or risk being banned from further practice before the SEC. *Id.*, at 41 (citing 15 U. S. C. §§ 7215(c)(4),

[13] FMR urges that the Senate Report's references to "employees of publicly traded companies" demonstrate that Congress wanted to limit whistleblower protection to such employees. Brief for Respondents 30–31. This argument fails for the same reason that FMR's reliance on the statutory section headings fails: "employees of publicly traded companies" must be understood as shorthand not designed to capture every employee covered by § 1514A. See *supra*, at 446–447. Senator Sarbanes' statement, cited in the concurring opinion, *post*, at 460, is similarly imprecise. The Act indisputably covers private accounting firms and law firms that provide services to public companies. See, *e. g.*, 15 U. S. C. §§ 7215, 7245. Indeed, Senator Sarbanes acknowledged this point in his very next sentence. 148 Cong. Rec. 14440 (2002) ("This legislation prohibits accounting firms from providing certain specified consulting services if they are also the auditors of the company.").

7245). These requirements, however, indicate why Congress would have wanted to extend § 1514A's coverage to the many lawyers and accountants who perform outside work for public companies. Although lawyers and accountants are subject to extensive regulations and sanctions throughout Sarbanes-Oxley, no provision of the Act other than § 1514A affords them protection from retaliation by their employers for complying with the Act's reporting requirements.[14] In short, we cannot countenance the position advanced by FMR and the dissent, see *post,* at 474–476, that Congress intended to leave these professionals vulnerable to discharge or other retaliatory action for complying with the law.

B

Our reading of § 1514A avoids insulating the entire mutual fund industry from § 1514A, as FMR's and the dissent's "narrower construction" would do. As companies "required to file reports under section 15(d) of the Securities Exchange Act of 1934," 18 U. S. C. § 1514A(a), mutual funds unquestionably are governed by § 1514A. Because mutual funds figure prominently among such report-filing companies, Congress presumably had them in mind when it added to "publicly traded companies" the discrete category of companies "required to file reports under section 15(d)."

Virtually all mutual funds are structured so that they have no employees of their own; they are managed, instead, by independent investment advisers. See S. Rep. No. 91–184, p. 5 (1969) (accompanying the 1970 amendments to the Investment Company Act of 1940). The United States invest-

[14] The dissent suggests that the Public Company Accounting Oversight Board's and the SEC's authority to sanction unprofessional conduct by accountants and lawyers, respectively, "could well provide" a disincentive to retaliate against other accountants and lawyers. See *post*, at 474. The possibility of such sanctions, however, is cold comfort to the accountant or lawyer who loses her job in retaliation for her efforts to comply with the Act's requirements if, as the dissent would have it, § 1514A does not enable her to seek reinstatement or backpay.

ment advising industry manages $14.7 trillion on behalf of nearly 94 million investors. See 2013 Investment Company Fact Book 7 (53d ed.), available at http://www.icifactbook.org/pdf/2013_factbook.pdf (as visited Feb. 20, 2014, and available in Clerk of Court's case file). These investment advisers, under our reading of § 1514A, are contractors prohibited from retaliating against their own employees for engaging in whistleblowing activity. This construction protects the "insiders [who] are the only firsthand witnesses to the [shareholder] fraud." S. Rep., at 10. Under FMR's and the dissent's reading, in contrast, § 1514A has no application to mutual funds, for all of the potential whistleblowers are employed by the privately held investment management companies, not by the mutual funds themselves. See Brief for Respondents 45 (describing this glaring gap as "merely a consequence of the corporate structure" of mutual funds).

The Court of Appeals found exclusion of the mutual fund industry from § 1514A tenable because mutual funds and their investment advisers are separately regulated under the Investment Company Act of 1940, 15 U. S. C. § 80a–1 *et seq.*, the Investment Advisers Act of 1940, § 80b–1 *et seq.*, and elsewhere in Sarbanes-Oxley. 670 F. 3d, at 72–73. See also *post*, at 476, n. 10. But this separate regulation does not remove the problem, for nowhere else in these legislative measures are investment management employees afforded whistleblower protection. Section 1514A alone shields them from retaliation for bringing fraud to light.

Indeed, affording whistleblower protection to mutual fund investment advisers is crucial to Sarbanes-Oxley's endeavor to "protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws." 116 Stat. 745. As plaintiffs observe, these disclosures are written, not by anyone at the mutual funds themselves, but by employees of the investment advisers. "Under FMR's [and the dissent's] proposed interpretation of section 1514A, FMR could dismiss any FMR employee who

disclosed to the directors of or lawyers for the Fidelity funds that there were material falsehoods in the documents being filed by FMR with the SEC in the name of those funds." Reply Brief 13. It is implausible that Congress intended to leave such an employee remediless. See *id.*, at 14.

C

Unable credibly to contest the glaring underinclusiveness of the "narrower reading" FMR urges, the dissent emphasizes instead FMR's claim that the reading of § 1514A we adopt is all too inclusive. See *post*, at 462, 466, 472–473, 479. FMR's *amici* also press this point, observing that the activity protected under § 1514A(a)(1) encompasses reporting not only securities fraud (18 U. S. C. § 1348), but also mail, wire, and bank fraud (§§ 1341, 1343, 1344). Including contractor employees in the protected class, they therefore assert, could "cas[t] a wide net over employees who have no exposure to investor-related activities and thus could not possibly assist in detecting investor fraud." Brief for Chamber of Commerce of the United States of America as *Amicus Curiae* 3. See also Brief for Securities Industry and Financial Markets Association as *Amicus Curiae* 7–16.

There is scant evidence, however, that these floodgate-opening concerns are more than hypothetical. DOL's regulations have interpreted § 1514A as protecting contractor employees for almost a decade.[15] See 69 Fed. Reg. 52105–52106 (2004). Yet no "narrower construction" advocate has identified even a single case in which the employee of a private contractor has asserted a § 1514A claim based on allegations unrelated to shareholder fraud. FMR's parade of horribles rests solely on *Lockheed Martin Corp.* v. *ARB*, 717 F. 3d

[15] Although the dissent suggests that the ARB had not provided "definitive clarification" on the issue prior to *Spinner*, *post*, at 473, the ARB "repeatedly interpreted [§ 1514A] as affording whistleblower protection to employees of [private] contractors" before *Spinner*. See *Spinner*, ALJ No. 2010–SOX–029, at 5 (citing prior decisions).

1121 (CA10 2013), a case involving mail and wire fraud claims asserted by an employee of a *public* company—*i. e.*, claims in no way affected by today's decision. The dissent's fears that household employees and others, on learning of today's decision, will be prompted to pursue retaliation claims, *post*, at 472, and that OSHA will find them meritorious under § 1514A, seem to us unwarranted. If we are wrong, however, Congress can easily fix the problem by amending § 1514A explicitly to remove personal employees of public company officers and employees from the provision's reach. But it would thwart Congress' dominant aim if contractors were taken off the hook for retaliating against their whistleblowing employees, just to avoid the unlikely prospect that babysitters, nannies, gardeners, and the like will flood OSHA with § 1514A complaints.

Plaintiffs and the Solicitor General observe that overbreadth problems may be resolved by various limiting principles. They point specifically to the word "contractor." Plaintiffs note that in "common parlance," "contractor" does not extend to every fleeting business relationship. Instead, the word "refers to a party whose performance of a contract will take place over a significant period of time." Reply Brief 16. See also *Fleszar* v. *Department of Labor*, 598 F. 3d 912, 915 (CA7 2010) ("Nothing in § 1514A implies that, if [a privately held business] buys a box of rubber bands from Wal-Mart, a company with traded securities, the [business] becomes covered by § 1514A.").

The Solicitor General further maintains that § 1514A protects contractor employees only to the extent that their whistleblowing relates to "the contractor . . . fulfilling its role as a contractor for the public company, not the contractor in some other capacity." Tr. of Oral Arg. 18–19 (Government counsel). See also *id.*, at 23 ("[I]t has to be a person who is in a position to detect and report the types of fraud and securities violations that are included in the statute. . . . [W]e think that 'the contractor of such company' refers to the contractor in that role, working for the public company.").

Finally, the Solicitor General suggests that we need not determine the bounds of § 1514A today, because plaintiffs seek only a "mainstream application" of the provision's protections. *Id.*, at 20 (Government counsel). We agree. Plaintiffs' allegations fall squarely within Congress' aim in enacting § 1514A. Lawson alleges that she was constructively discharged for reporting accounting practices that overstated expenses associated with managing certain Fidelity mutual funds. This alleged fraud directly implicates the funds' shareholders: "By inflating its expenses, and thus understating its profits, [FMR] could potentially increase the fees it would earn from the mutual funds, fees ultimately paid by the shareholders of those funds." Brief for Petitioners 3. Zang alleges that he was fired for expressing concerns about inaccuracies in a draft registration statement FMR prepared for the SEC on behalf of certain Fidelity funds. The potential impact on shareholders of false or misleading registration statements needs no elaboration. If Lawson and Zang's allegations prove true, these plaintiffs would indeed be "firsthand witnesses to [the shareholder] fraud" Congress anticipated § 1514A would protect. S. Rep., at 10.

D

FMR urges that legislative events subsequent to Sarbanes-Oxley's enactment show that Congress did not intend to extend § 1514A's protections to contractor employees.[16] In particular, FMR calls our attention to the 2010

[16] We can easily dismiss FMR's invocation of a failed bill from 2004, the Mutual Fund Reform Act, S. 2059, 108th Cong., 2d Sess., § 116(b), which would have amended § 1514A explicitly to cover employees of investment advisers and affiliates. Brief for Respondents 34–35. "[F]ailed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute." *United States* v. *Craft*, 535 U. S. 274, 287 (2002) (internal quotation marks omitted). Where, as here, the proposed amendment amounted to six lines in a 51-page bill that died without any committee action, its failure is scarcely relevant to Congress' intentions regarding a different bill enacted two years earlier.

Dodd-Frank Wall Street Reform and Consumer Protection Act, 124 Stat. 1376 (Dodd-Frank). Dodd-Frank amended § 1514A(a) to read:

> "No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U. S. C. 78*l*), or that is required to file reports under [section 12] of the [1934 Act] (15 U. S. C. 78*o*(d)) *including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company, or nationally recognized statistical rating organization (as defined in section 3(a) of the [1934 Act] (15 U. S. C. 78c))*, or any officer, employee, contractor, subcontractor, or agent of such company *or nationally recognized statistical rating organization*, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any [protected activity]." 18 U. S. C. § 1514A(a) (2012 ed.) (emphasis added; footnote omitted).

The amended provision extends § 1514A's protection to employees of public company subsidiaries and nationally recognized statistical rating organizations (NRSROs). FMR asserts that Congress' decision to add NRSROs to § 1514A shows that the provision did not previously cover contractor employees: "If [§ 1514A] already covered every private company contracting with a public company, there would have been no need for Congress to extend [§ 1514A] to certain private companies." Brief for Respondents 35–36. This argument fails at the starting gate, for FMR concedes that not all NRSROs are privately held, and not all NRSROs contract with public companies. *Id.*, at 36.

We see nothing useful to our inquiry in Congress' decision to amend § 1514A to include public company subsidiaries and NRSROs. More telling, at the time of the Dodd-Frank amendments, DOL regulations provided that § 1514A protects contractor employees. See 29 CFR § 1980.101 (2009).

Congress included in its alterations no language gainsaying that protection. As Judge Thompson's dissent from the First Circuit's judgment observes, "Congress had a miles-wide opening to nip [DOL's] regulation in the bud if it had wished to do so. It did not." 670 F. 3d, at 88.

Dodd-Frank also establishes a corporate whistleblowing reward program, accompanied by a new provision prohibiting any employer from retaliating against "a whistleblower" for providing information to the SEC, participating in an SEC proceeding, or making disclosures required or protected under Sarbanes-Oxley and certain other securities laws. 15 U. S. C. § 78u–6(a)(6), (b)(1), (h). FMR urges that, as this provision covers employees of all companies, public or private, "[t]here is no justification" for reading § 1514A to cover employees of contractors: "Any 'gap' that might, *arguendo*, have existed for employees of private entities between 2002 and 2010 has now been closed." Brief for Respondents 44.[17]

FMR, we note, somewhat overstates Dodd-Frank's coverage. Section 1514A's protections include employees who provide information to any "person with supervisory authority over the employee." § 1514A(a)(1)(C). Dodd-Frank's whistleblower provision, however, focuses primarily on reporting to federal authorities. See Brief for United States as *Amicus Curiae* 30 ("[I]f employees of contractors of public companies are not protected under Section 1514A, they are not protected for making internal complaints under . . . the Dodd-Frank Act.").

In any event, our task is not to determine whether including contractor employees in the class protected by § 1514A remains necessary in 2014. It is, instead, to determine whether Congress afforded protection to contractor employees when it enacted § 1514A in 2002. If anything relevant to our inquiry can be gleaned from Dodd-Frank, it is

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[17] FMR acknowledges that plaintiffs' claims could have proceeded under Dodd-Frank, but for the date of enactment. Brief for Respondents 43.

that Congress apparently does not share FMR's concerns about extending protection comprehensively to corporate whistleblowers.[18]

IV

We end by returning to AIR 21's whistleblower protection provision, 49 U. S. C. § 42121, enacted two years before Sarbanes-Oxley. Congress designed § 1514A to "track . . . as closely as possible" the protections afforded by § 42121. S. Rep., at 30. To this end, § 1514A incorporates by cross-reference § 42121's administrative enforcement regime, see 18 U. S. C. § 1514A(b)(2), and contains parallel statutory text. Compare § 1514A(a) ("No [public] company . . . or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment" for engaging in protected activity) with 49 U. S. C. § 42121(a) ("No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment" for engaging in protected activity).[19]

Section 42121 has been read to protect employees of contractors covered by the provision. The ARB has consistently construed AIR 21 to cover contractor employees. *E. g.*, *Evans* v. *Miami Valley Hospital*, ARB No. 07–118 etc., ALJ No. 2006–AIR–022, pp. 9–11 (June 30, 2009); *Peck* v. *Safe Air Int'l, Inc.*, ARB No. 02–028, ALJ No. 2001–AIR–3,

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[18] Section 1107 of the Act is of similar breadth, declaring it a criminal offense to "tak[e] any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense." 18 U. S. C. § 1513(e).

[19] For other provisions borrowing from AIR 21, see 49 U. S. C. § 20109, governing rail carriers, which incorporates AIR 21's enforcement procedures, and § 31105, governing motor carriers, which incorporates AIR 21's proof burdens.

p. 13 (Jan. 30, 2004).[20] And DOL's regulations adopting this interpretation of § 42121 date back to April 1, 2002, before § 1514A was enacted. 67 Fed. Reg. 15454, 15457–15458 (2002). The Senate Report for AIR 21 supports this reading, explaining that the Act "provide[s] employees of airlines, and employees of airline contractors and subcontractors, with statutory whistleblower protection." S. Rep. No. 105–278, p. 22 (1998).[21]

The Court of Appeals recognized that Congress modeled § 1514A on § 42121, and that § 42121 has been understood to protect contractor employees. 670 F. 3d, at 73–74. It nonetheless declined to interpret § 1514A the same way, because, in its view, "important differences" separate the two provisions. First, unlike § 1514A, § 42121 contains a definition of "contractor": "a company that performs safety-sensitive functions by contract for an air carrier." 49 U. S. C. § 42121(e). Second, unlike § 1514A, § 42121 does not include "officers" or "employees" among governed actors. 670 F. 3d, at 74. These distinctions, the Court of Appeals reasoned, render § 1514A less amenable to an inclusive construction of the protected class. *Ibid.*[22]

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[20] The ARB has also interpreted similarly worded whistleblower protection provisions in the Pipeline Safety Improvement Act of 2002, 49 U. S. C. § 60129(a), and the Energy Reorganization Act of 1974, 42 U. S. C. § 5851(a), as protecting employees of contractors. See *Rocha* v. *AHR Utility Corp.*, ARB No. 07–112, ALJ No. 2006–PSI–001 etc., p. 2 (June 25, 2009); *Robinson* v. *Triconex Corp.*, ARB No. 10–013, ALJ No. 2006–ERA–031, pp. 8–9 (Mar. 28, 2012).

[21] FMR protests that there is no court of appeals precedent on point, Brief for Respondents 24, n. 6, but the courts of appeals are not, of course, the only lodestar for determining whether a proposition of law is plainly established.

[22] The dissent suggests the provisions' headings are also distinguishable because § 42121's title—"Protection of employees providing air safety information"—"comfortably encompasses the employees of contractors." *Post*, at 468. The dissent omits, however, the subsection heading directly following the title: "Discrimination against airline employees." § 42121(a).

We do not find these textual differences overwhelming. True, Congress strayed from § 42121's pattern in failing to define "contractor" for purposes of § 1514A, and in adding "officers" and "employees" to § 1514A's list of governed actors. And we agree that § 1514A covers a far wider range than § 42121 does. But in our view, neither difference warrants the determination that § 1514A omits employees of contractors while § 42121 includes them. The provisions' parallel text and purposes counsel in favor of interpreting the two provisions consistently. And we have already canvassed the many reasons why § 1514A is most sensibly read to protect employees of contractors. See *supra*, at 440–454.

* * *

For the reasons stated, we hold that 18 U. S. C. § 1514A whistleblower protection extends to employees of contractors and subcontractors. The judgment of the U. S. Court of Appeals for the First Circuit is therefore reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, concurring in principal part and concurring in the judgment.

I agree with the Court's conclusion that 18 U. S. C. § 1514A protects employees of private contractors from retaliation when they report covered forms of fraud. As the Court carefully demonstrates, that conclusion logically flows from § 1514A's text and broader context. I therefore join the Court's opinion in principal part.

I do not endorse, however, the Court's occasional excursions beyond the interpretative terra firma of text and context, into the swamps of legislative history. Reliance on legislative history rests upon several frail premises. First, and most important: That the statute means what Congress intended. It does not. Because we are a government of laws, not of men, and are governed by what Congress

enacted rather than by what it intended, the sole object of the interpretative enterprise is to determine what a law *says*. Second: That there *was* a congressional "intent" apart from that reflected in the enacted text. On most issues of detail that come before this Court, I am confident that the majority of Senators and Representatives had no views whatever on how the issues should be resolved—indeed, were unaware of the issues entirely. Third: That the views expressed in a committee report or a floor statement represent those of all the Members of that House. Many of them almost certainly did not read the report or hear the statement, much less agree with it—not to mention the Members of the other House and the President who signed the bill.

Since congressional "intent" apart from enacted text is fiction to begin with, courts understandably allow themselves a good deal of poetic license in defining it. Today's opinion is no exception. It cites parts of the legislative record that are consistent with its holding that § 1514A covers employees of private contractors and subcontractors, but it ignores other parts that unequivocally cut in the opposite direction. For example, the following remark by the Sarbanes-Oxley Act's lead sponsor in the Senate: "[L]et me make very clear that [the Act] applies exclusively to public companies—that is, to companies registered with the Securities and Exchange Commission. It is not applicable to pr[i]v[at]e companies,[*] who make up the vast majority of companies across the country." 148 Cong. Rec. 14440 (2002) (remarks of Sen. Sarbanes).

Two other minor points in the Court's opinion I do not agree with. First, I do not rely on the fact that a separate anti-retaliation provision, 49 U. S. C. § 42121(a), "has been read" by an administrative tribunal to cover contractor em-

*The Congressional Record reads "provide companies," but context as well as grammar makes clear that this is a scrivener's error for "private companies."

ployees. *Ante,* at 457. Section 1514A(b)(2), entitled "Procedure," contains cross-references to the procedural rules set forth in § 42121(b), but the substantive provisions of § 1514A(a) are worded quite differently from the substantive prohibition of § 42121, which is contained in subsection (a)—thus making interpretation of the latter an unreliable guide to § 1514A's meaning. Second, I do not agree with the Court's acceptance of the possible validity of the Government's suggestion that "§ 1514A protects contractor employees only to the extent that their whistleblowing relates to 'the contractor . . . fulfilling its role as a contractor for the public company.'" *Ante,* at 453 (quoting Tr. of Oral Arg. 18–19). Although that "limiting princip[e]," *ibid.*, may be appealing from a policy standpoint, it has no basis whatsoever in the statute's text. So long as an employee works for one of the actors enumerated in § 1514A(a) and reports a covered form of fraud in a manner identified in § 1514(a)(1)–(2), the employee is protected from retaliation.

For all the other reasons given by the Court, the statute's text is clear, and I would reverse the judgment of the Court of Appeals and remand the case.

JUSTICE SOTOMAYOR, with whom JUSTICE KENNEDY and JUSTICE ALITO join, dissenting.

Section 806 of the Sarbanes-Oxley Act of 2002, 116 Stat. 802, forbids any public company,[1] or any "officer, employee, contractor, subcontractor, or agent of such company," to retaliate against "an employee" who reports a potential fraud. 18 U. S. C. § 1514A(a). The Court recognizes that the core purpose of the Act is to "safeguard investors in public companies." *Ante,* at 432. And the Court points out that Congress

[1] The majority uses the term "public company" as shorthand for 18 U. S. C. § 1514A's reference to companies that either have "'a class of securities registered under section 12 of the Securities Exchange Act of 1934,'" or that are "'required to file reports under section 15(d).'" *Ante,* at 438, 440. I do the same.

entitled the whistleblower provision, "Protection for Employees of Publicly Traded Companies Who Provide Evidence of Fraud." § 806, 116 Stat. 802. Despite these clear markers of intent, the Court does not construe § 1514A to apply only to public company employees who blow the whistle on fraud relating to their public company employers. The Court instead holds that the law encompasses any household employee of the millions of people who work for a public company and any employee of the hundreds of thousands of private businesses that contract to perform work for a public company.

The Court's interpretation gives § 1514A a stunning reach. As interpreted today, the Sarbanes-Oxley Act authorizes a babysitter to bring a federal case against his employer—a parent who happens to work at the local Walmart (a public company)—if the parent stops employing the babysitter after he expresses concern that the parent's teenage son may have participated in an Internet purchase fraud. And it opens the door to a cause of action against a small business that contracts to clean the local Starbucks (a public company) if an employee is demoted after reporting that another non-public company client has mailed the cleaning company a fraudulent invoice.

Congress was of course free to create this kind of sweeping regime that subjects a multitude of individuals and private businesses to litigation over fraud reports that have no connection to, or impact on, the interests of public company shareholders. But because nothing in the text, context, or purpose of the Sarbanes-Oxley Act suggests that Congress actually wanted to do so, I respectfully dissent.

I

Although the majority correctly starts its analysis with the statutory text, it fails to recognize that § 1514A is deeply ambiguous. Three indicators of Congress' intent clearly resolve this ambiguity in favor of a narrower interpretation of § 1514A: the statute's headings, the statutory con-

text, and the absurd results that follow from the majority's interpretation.

A

The majority begins its textual analysis by declaring that the "'relevant syntactic elements'" of § 1514A are that "'"no . . . contractor . . . may discharge . . . an employee."'" *Ante,* at 440. After "'boiling . . . down'" the text to this formulation, the majority concludes that the "ordinary meaning of 'an employee'" is obviously "the contractor's own employee." *Ibid.*

If that were what the statute said, the majority's decision would undoubtedly be correct. But § 1514A(a) actually provides that "[n]o [public] company . . . or any officer, employee, contractor, subcontractor, or agent of such company . . . may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee." The provision thus does not speak only (or even primarily) to "contractors." It speaks to public companies, and then includes a list of five types of representatives that companies hire to carry out their business: "officer[s], employee[s], contractor[s], subcontractor[s], [and] agent[s]."

Read in full, then, the statute is ambiguous. The majority is correct that it may be read broadly, to create a cause of action both for employees of public companies and for employees of the enumerated public company representatives. But the statute can also be read more narrowly, to prohibit the public company and the listed representatives—all of whom act on the company's behalf—from retaliating against just the public company's employees.

The narrower reading of the text makes particular sense when one considers the other terms in the list of company representatives. The majority acknowledges that, as a matter of "gramma[r]," the scope of protected employees must be consistent with respect to all five types of company representatives listed in § 1514A(a). *Ante,* at 445. Yet the Government and petitioners readily concede that § 1514A is

meant to bar two of the enumerated representatives—"officer[s]" and "employee[s]"—from retaliating against other employees of the public company, as opposed to their own babysitters and housekeepers. See Brief for United States as *Amicus Curiae* 16 (§ 1514A "impose[s] personal liability on corporate officers and employees who are involved in retaliation against other employees of their employer"); Brief for Petitioners 12 (similar). The Department of Labor's Administrative Review Board (ARB) agrees. *Spinner* v. *David Landau & Assoc., LLC*, No. 10–111 etc., ALJ No. 2010–SOX–029, p. 8 (May 31, 2012). And if § 1514A prohibits an "officer" or "employee" of a public company from retaliating against only the public company's own employees, then as the majority points out, the same should be true "grammatically" of contractors, subcontractors, and agents as well, *ante*, at 445.[2]

The majority responds by suggesting that the narrower interpretation could have been clearer if Congress had added the phrase "'of a public company' after 'an employee.'" *Ante*, at 440. Fair enough. But Congress could more clearly have dictated the majority's construction of the statute, too: It could have specified that public companies and their officers, employees, contractors, subcontractors, and agents may not retaliate against "their own employees." In any case, that Congress could have spoken with greater specificity in both directions only underscores that the words Congress actually chose are ambiguous. To resolve this ambiguity, we must rely on other markers of intent.

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[2] In reaching the opposite conclusion, the majority rejects the concessions by the Government and petitioners and gives no weight to the ARB's interpretation. If § 1514A creates a cause of action for contractor employees, the majority concludes, so too must it create a cause of action for "housekeepers" and "gardeners" against their individual employers if they happen to work for a public company. *Ante*, at 445. In reaching this result, however, the majority only adds to the absurdities produced by its holding. See *infra*, at 473.

B

We have long held that where the text is ambiguous, a statute's titles can offer "a useful aid in resolving [the] ambiguity." *FTC* v. *Mandel Brothers, Inc.*, 359 U. S. 385, 388–389 (1959). Here, two headings strongly suggest that Congress intended § 1514A to apply only to employees of public companies. First, the title of § 806—the section of the Sarbanes-Oxley Act that enacted § 1514A—speaks clearly to the scope of employees protected by the provision: "Protection for Employees of Publicly Traded Companies Who Provide Evidence of Fraud." 116 Stat. 802. Second, the heading of § 1514A(a) reinforces that the provision provides "[w]histleblower protection for employees of publicly traded companies."

The majority suggests that in covering "employees of publicly traded companies," the headings may be imprecise. *Ante*, at 446. Section 1514A(a) technically applies to the employees of two types of companies: those "with a class of securities registered under section 12 of the Securities Exchange Act of 1934," and those that are "required to file reports under section 15(d) of the" same Act. Both types of companies are "public" in that they are publicly owned. See *ante*, at 438. The difference is that shares of the § 12 companies are listed and traded on a national securities exchange; § 15(d) companies, by contrast, exchange their securities directly with the public. The headings may therefore be inexact in the sense that the phrase "publicly traded" is commonly associated with companies whose securities are traded on national exchanges. Congress, however, had good reason to use the phrase to refer to § 15(d) companies as well: Section 15(d) companies are traded publicly, too. For instance, as the majority recognizes, *ante*, at 450, a mutual fund is one paradigmatic example of a § 15(d) company. And mutual funds, like other § 15(d) companies, are both publicly owned and widely traded; the trades just take place typically between the fund and its investors directly.

In any case, even if referring to employees of § 12 and § 15(d) companies together as "employees of publicly traded companies" may be slightly imprecise, the majority's competing interpretation of § 1514A would stretch the statute's headings far past the point of recognition. As the majority understands the law, Congress used the term "employees of publicly traded companies" as shorthand not just for (1) employees of § 12 and § 15(d) companies, but also for (2) household employees of any individual who works for a § 12 or § 15(d) company; (3) employees of any private company that contracts with a § 12 or § 15(d) company; (4) employees of any private company that, even if it does not contract with a public company, subcontracts with a private company that does; and (5) employees of any agent of a § 12 or § 15(d) company. If Congress had wanted to enact such a far-reaching provision, it would have called it something other than "[w]histleblower protection for employees of publicly traded companies."

Recognizing that Congress chose headings that are inconsistent with its interpretation, the majority notes that the Court has "placed less weight on captions." *Ante*, at 446. But where the captions favor one interpretation so decisively, their significance should not be dismissed so quickly. As we have explained, headings are important "'tools available for the resolution of a doubt' about the meaning of a statute." *Almendarez-Torres* v. *United States*, 523 U. S. 224, 234 (1998).

C

1

Statutory context confirms that Congress intended § 1514A to apply only to employees of public companies. To start, the Sarbanes-Oxley Act as a whole evinces a clear focus on public companies. Congress stated in the Act's preamble that its objective was to "protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws," 116 Stat. 745, disclosures

that public companies alone must file. The Act thus created enhanced disclosure obligations for public companies, § 401; added new conflict of interest rules for their executives, § 402; increased the responsibilities of their audit committees, § 301; and created new rules governing insider trading by their executives and directors, § 306. The common denominator among all of these provisions is their singular focus on the activities of public companies.

When Congress wanted to depart from the Act's public company focus to regulate private firms and their employees, it spoke clearly. For example, § 307 of the Act ordered the Securities and Exchange Commission (SEC) to issue rules "setting forth minimum standards of professional conduct for attorneys appearing and practicing before the [SEC]," including a rule requiring outside counsel to report violations of the securities laws to public company officers and directors. 15 U. S. C. § 7245. Similarly, Title I of the Act created the Public Company Accounting Oversight Board (PCAOB) and vested it with the authority to register, regulate, investigate, and discipline privately held outside accounting firms and their employees. §§ 7211–7215. And Title V required the SEC to adopt rules governing outside securities analysts when they make public recommendations regarding securities. § 78*o*–6.

Section 1514A, by contrast, does not unambiguously cover the employees of private businesses that contract with public companies or the employees of individuals who work for public companies. Far from it, for the reasons noted above. Yet as the rest of the Sarbanes-Oxley Act demonstrates, if Congress had really wanted § 1514A to impose liability upon broad swaths of the private sector, it would have said so more clearly.

Congress' intent to adopt the narrower understanding of § 1514A is also clear when the statute is compared to the whistleblower provision that served as its model. That provision, enacted as part of the Wendell H. Ford Aviation In-

vestment and Reform Act for the 21st Century, 49 U. S. C. § 42121, provides that "[n]o air carrier or contractor or subcontractor of an air carrier" may retaliate against an employee who reports a potential airline safety violation.

Section 42121 protects employees of contractors. But as the majority acknowledges, "Congress strayed" from § 42121 in significant ways when it wrote § 1514A. *Ante*, at 459. First, § 42121 specifically defines the term "contractor," limiting the term to "a company that performs safety-sensitive functions by contract for an air carrier." § 42121(e). That is in notable distinction to § 1514A, which does not define the word "contractor" as a particular type of company, instead placing the term in a list alongside individual "officer[s]" and "employee[s]" who act on a company's behalf. Second, unlike § 42121, § 1514A sets off the term "contractor" in a separate clause that is subsidiary to the primary subject of the provision—the public company itself. Third, the title of § 42121 is "[p]rotection of employees providing air safety information," a title that comfortably encompasses the employees of contractors. Not so of § 1514A's headings, as explained above. In short, § 42121 shows that Congress had an easy-to-follow model if it wanted to protect the employees of contractors, yet chose to depart from that model in several important ways. We should not presume that choice to be accidental. See *Blue Chip Stamps* v. *Manor Drug Stores*, 421 U. S. 723, 734 (1975).

2

The majority relies on statutory context as well, but its examples are unconvincing. It first argues that the types of conduct prohibited by the statute—"discharge, demotion, suspension, threats, harassment, [and] discrimination in the terms and conditions of employment—are commonly actions an employer takes against its *own* employees." *Ante*, at 441. The problem is that § 1514A does not forbid retaliation by an "employer"; it forbids retaliation by a "[public] company . . . or any officer, employee, contractor, subcontractor, or agent of such company." For the reasons already dis-

cussed, Congress could have reasonably included the five types of representatives not in their capacity as employers, but rather as representatives of the company who are barred from retaliating against a public company's employees on the company's behalf.

The majority next suggests that contractors are rarely "positioned to take adverse actions against employees of the public company with whom they contract." *Ibid.* That misconceives the nature of modern work forces, which increasingly comprise a mix of contractors and persons laboring under more typical employment relationships. For example, public companies often hire "independent contractors," of whom there are more than 10 million,[3] and contract workers,[4] of whom there are more than 11 million.[5] And they employ outside lawyers, accountants, and auditors as well. While not every person who works for a public company in these nonemployee capacities may be positioned to threaten or harass employees of the public company, many are. See, *e. g.*, *Tides* v. *Boeing Co.*, 644 F. 3d 809, 811 (CA9 2011) (noting that "approximately seventy contract auditors from [an] accounting firm" possessed "managerial authority" over the 10 Boeing employees in the company's audit division). Congress therefore had as much reason to shield a public company's employees from retaliation by the company's contractors as it had to bar retaliation by officers and

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[3] Dept. of Labor, Bureau of Labor Statistics, News, Contingent and Alternative Employment Arrangements, Feb. 2005 (July 27, 2005), online at http://www.bls.gov/news.release/conemp.nr0.htm (all Internet materials as visited on Feb. 28, 2014, and available in Clerk of Court's case file).

[4] The Bureau of Labor Statistics distinguishes contract workers from independent contractors, defining the former as "[w]orkers who are employed by a company that provides them or their services to others under contract and who . . . usually work at the customer's worksite." *Id.*, at 2 (Table A).

[5] Penn, Staffing Firms Added Nearly 1 Million Jobs Over Four Years Since Recession, ASA Says, Bloomberg Law (Oct. 8, 2012), online at http://about.bloomberglaw.com/law-reports/staffing-firms-added-early-1-million-jobs-over-four-years-since-recession-asa-says/.

employees. Otherwise, the statute would have had a gaping hole—a public company could evade § 1514A simply by hiring a contractor to engage in the very retaliatory acts that an officer or employee could not.[6]

The majority also too quickly dismisses the prominence of "outplacement" firms, or consultants that help companies determine whom to fire. See *ante*, at 441–442. Companies spent $3.6 billion on these services in 2009 alone.[7] Congress surely could have meant to protect public company employees against retaliation at the hands of such firms, especially in the event that the public company itself goes bankrupt (as companies engaged in fraud often do). See, *e. g.*, *Kalkunte* v. *DVI Financial Servs., Inc.*, No. 05–139 etc., ALJ No. 2004–SOX–056 (Feb. 27, 2009) (former employee of bankrupt public company permitted to bring § 1514A action against corporate restructuring firm that terminated her employment).[8]

[6] The majority submits that the hole might not be so problematic because § 1514A "surely" prohibits a "public company from directing someone else to engage in retaliatory conduct against the public company's employees." *Ante*, at 444. It surely does, but that is the point—the whole reason § 1514A(a) clearly does so is because it expressly forbids a public company to retaliate against its employees through "any officer, employee, contractor, subcontractor, or agent." The prohibition on retaliation through a contractor would be far less certain (hence the hole) if Congress had merely forbidden a public company to retaliate through its "officers and employees." Moreover, while the majority concedes that, under the narrower reading of § 1514A, Congress' inclusion of the term "contractor" imposes secondary liability in the event a public company is judgment proof, *ibid.*, the majority fails to recognize that Congress' use of the term also imposes primary liability against contractors who threaten public company employees without direction from the company. Thus, for example, FMR's interpretation of § 1514A would prevent an outside accountant from threatening or harassing a public company employee who discovers that the accountant is defrauding the public company and who seeks to blow the whistle on that fraud.

[7] Rogers, Do Firing Consultants Really Exist, Slate, Jan. 7, 2010, www.slate.com/articles/news_and_politics/explainer/2010/01/getting_the_ax_from_george_clooney.html.

[8] The majority suggests that an outplacement firm would likely be acting as an "agent" for the public company, such that Congress' additional inclusion of the word "contractor" would be superfluous under the narrower

The majority points next to the remedies afforded by § 1514A(c), which authorizes "all relief necessary to make the employee whole," in addition to "reinstatement," "back pay," and "special damages . . . including litigation costs, expert witness fees, and reasonable attorney fees." The majority posits that Congress could not have intended to bar contractors from retaliating against public company employees because one of the remedies (reinstatement) would likely be outside of the contractor's power. *Ante*, at 443. But there is no requirement that a statute must make every type of remedy available against every type of defendant. A contractor can compensate a whistleblower with backpay, costs, and fees, and that is more than enough for the statute's remedial scheme to make sense. The majority's reference to the affirmative defense for public company "employers" who lack "knowledge" that an employee has participated in a proceeding relating to the fraud report, *ibid.* (citing § 1514A(a)(2)), fails for a similar reason. There is no rule that Congress may only provide an affirmative defense if it is available to every conceivable defendant.

D

1

Finally, the majority's reading runs afoul of the precept that "interpretations of a statute which would produce absurd results are to be avoided if alternative interpretations consistent with the legislative purpose are available." *Griffin* v. *Oceanic Contractors, Inc.*, 458 U. S. 564, 575 (1982).

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reading of § 1514A. *Ante*, at 442, n. 9. The two words are not legally synonymous, however. An outplacement firm and public company might, for example, enter into a contract with a provision expressly disclaiming an agency relationship. Moreover, Congress' use of the term "contractor" would in all events have an independent and important effect: If Congress had not included the term, no one could be held liable if a contractor were to threaten or harass a public company employee without the company's direction. While the majority may speculate that such occurrences are rare, *ibid.*, it is hardly unthinkable, see n. 6, *supra*.

The majority's interpretation transforms § 1514A into a sweeping source of litigation that Congress could not have intended. As construed by the majority, the Sarbanes-Oxley Act regulates employment relationships between individuals and their nannies, housekeepers, and caretakers, subjecting individual employers to litigation if their employees claim to have been harassed for providing information regarding any of a host of offenses. If, for example, a nanny is discharged after expressing a concern to his employer that the employer's teenage son may be participating in some Internet fraud, the nanny can bring a § 1514A suit. The employer may prevail, of course, if the nanny cannot prove he was fired "because of" the fraud report. § 1514A. But there is little reason to think Congress intended to sweep such disputes into federal court.

Nor is it plausible that Congress intended the Act to impose costly litigation burdens on any private business that happens to have an ongoing contract with a public company. As the majority acknowledges, the purpose of the Act was to protect public company investors and the financial markets. Yet the majority might well embroil federal agencies and courts in the resolution of mundane labor disputes that have nothing to do with such concerns. For instance, a construction worker could file a § 1514A suit against her employer (that has a long-term contract with a public company) if the worker is demoted after reporting that another client has mailed the company a false invoice.[9]

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[9] Recognizing that the majority's reading would lead to a "notably expansive scope untethered to the purpose of the statute," the District Court in this case sought to impose an extratextual limiting principle under which an employee who reports fraud is entitled to protection only if her report "relat[es] to fraud against shareholders." 724 F. Supp. 2d 141, 160 (Mass. 2010). The District Court acknowledged, however, that "the language of the statute itself does not plainly provide such a limiting principle," *id.*, at 158, and the majority does not attempt to revive that limitation here.

The majority's interpretation also produces truly odd distinctions. Under the rule it announces, a babysitter can bring a § 1514A retaliation suit against his employer if his employer is a checkout clerk for the local PetSmart (a public company), but not if she is a checkout clerk for the local Petco (a private company). Likewise, the day laborer who works for a construction business can avail herself of § 1514A if her company has been hired to help remodel the local Dick's Sporting Goods store (a public company), but not if it is remodeling a nearby Sports Authority (a private company).

In light of the reasonable alternative reading of § 1514A, there is no reason to accept these absurd results. The majority begs to differ, arguing that "[t]here is scant evidence" that lawsuits have been brought by the multitude of newly covered employees "'who have no exposure to investor-related activities and thus could not possibly assist in detecting investor fraud.'" *Ante*, at 452. Until today, however, no court has deemed § 1514A applicable to household employees of individuals who work for public companies; even the Department of Labor's ARB rejected that view. *Spinner*, ALJ No. 2010–SOX–029, at 8. And as the District Court noted, prior to the ARB's 2012 decision in *Spinner*, the ARB "ha[d] yet to provide . . . definitive clarification" on the question whether § 1514A extends to the employees of a public company's private contractors. 724 F. Supp. 2d 141, 155 (Mass. 2010). So the fact that individuals and private businesses have yet to suffer burdensome litigation offers little assurance that the majority's capacious reading of § 1514A will produce no untoward effects.

Finally, it must be noted that § 1514A protects the reporting of a variety of frauds—not only securities fraud, but also mail, wire, and bank fraud. By interpreting a statute that already protects an expansive class of conduct also to cover a large class of employees, today's opinion threatens to subject private companies to a costly new front of employment litiga-

tion. Congress almost certainly did not intend the statute to have that reach.

2

The majority argues that the broader reading of § 1514A is necessary because a small number of the millions of individuals and private companies affected by its ruling have a special role to play in preventing public company fraud. If § 1514A does not bar retaliation against employees of contractors, the majority cautions, then law firms and accounting firms will be free to retaliate against their employees when those employees report fraud on the part of their public company clients.

It is undisputed that Congress was aware of the role that outside accountants and lawyers played in the Enron debacle and the importance of encouraging them to play an active part in preventing future scandals. But it hardly follows that Congress must have meant to apply § 1514A to every employee of every public company contractor, subcontractor, officer, and employee as a result. It is far more likely that Congress saw the unique ethical duties and professional concerns implicated by outside lawyers and accountants as reason to vest regulatory authority in the hands of experts with the power to sanction wrongdoers.

Specifically, rather than imposing § 1514A's generic approach on outside accounting firms, Congress established the PCAOB, which regulates "every detail" of an accounting firm's practice, including "supervision of audit work," "internal inspection procedures," "professional ethics rules," and "'such other requirements as the Board may prescribe.'" *Free Enterprise Fund* v. *Public Company Accounting Oversight Bd.*, 561 U. S. 477, 485 (2010). Importantly, the PCAOB is empowered to levy "severe sanctions in its disciplinary proceedings, up to and including the permanent revocation of a firm's registration . . . and money penalties of $15 million." *Ibid.* (citing 15 U. S. C. § 7215(c)(4)). Such sanctions could well provide a more powerful incentive to pre-

vent an accounting firm from retaliating against its employees than § 1514A.

The Sarbanes-Oxley Act confers similar regulatory authority upon the SEC with respect to attorneys. The Act requires the SEC to establish rules of professional conduct for attorneys, § 307 (codified at 15 U. S. C. § 7245), and confers broad power on the SEC to punish attorneys for "improper professional conduct," which would include, for example, a law firm partner's decision to retaliate against an associate who reports fraud, § 602 (codified at 15 U. S. C. § 78d–3). Indeed, the Act grants the SEC the power to censure culpable attorneys and to deny "permanently" to any such attorney the "privilege of appearing or practicing before" the SEC "in any way." § 602.

Congress thus evidently made the judgment that decisions concerning how best to punish law firms and accounting firms ought to be handled not by the Department of Labor, but by the SEC and the PCAOB. Such judgment should not be disturbed under usual circumstances, much less at the cost to congressional intent produced by today's ruling. The majority does offer cogent policy arguments for why Congress might have been wiser to include certain types of contractors within § 1514A, noting for example that a law firm or accounting firm might be able to retaliate against its employees for making reports required under the Sarbanes-Oxley Act. *Ante*, at 450. But as the majority recognizes, Congress has since remedied that precise concern, enacting a comprehensive whistleblower incentive and protection program that unequivocally "prohibit[s] any employer"—public or private—"from retaliating against 'a whistleblower' for providing information to the SEC, participating in an SEC proceeding, or making disclosures required or protected under Sarbanes-Oxley and certain other securities laws." *Ante*, at 456 (citing 15 U. S. C. §§ 78u–6(a)(6), (b)(1), (h)). The majority thus acknowledges that, moving forward, retaliation claims like the petitioners' may "procee[d] under

[§ 78u–6]," *ante*, at 456, n. 17. In other words, to the extent the majority worries about a "hole" in FMR's interpretation, *ante*, at 444, Congress has already addressed it.[10]

II

Because the statute is ambiguous, and because the majority's broad interpretation has also been adopted by the ARB, there remains the question whether the ARB's decision in *Spinner*, ALJ No. 2010–SOX–029, is entitled to deference under *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837 (1984).[11] Under *United States* v. *Mead Corp.*, 533 U. S. 218, 226–227 (2001), an agency may claim *Chevron* deference "when it appears [1] that Congress delegated authority to the agency generally to make rules carrying the force of law, and [2] that the agency interpretation claiming deference was promulgated in the exercise of that authority." Neither requirement is met here.

First, the agency interpretation for which petitioners claim deference is the position announced by the ARB, the

[10] The majority also contends that its reading is necessary to avoid "insulating the entire mutual fund industry from § 1514A." *Ante*, at 450. But that argument is misguided for a reason similar to the majority's concern about lawyers and accountants. As this Court has observed, Congress responded to the "'potential for abuse inherent in the structure of investment companies,'" *Daily Income Fund, Inc.* v. *Fox*, 464 U. S. 523, 536 (1984), by enacting the Investment Company Act of 1940 and the Investment Advisers Act of 1940. 15 U. S. C. § 80a–1 *et seq.*; § 80b–1 *et seq.* The Advisers Act in particular grants the SEC broad regulatory authority to regulate mutual fund investment advisers. § 80b–11. The Act also authorizes fines and imprisonment of up to five years for violations of SEC rules. The SEC thus has broad discretion to punish retaliatory actions taken by mutual fund advisers against their employees. And to the extent these provisions may have been insufficient to protect mutual fund adviser employees, § 78u–6's extensive whistleblower incentive and protection program now unambiguously covers such employees.

[11] Although it claims not to reach the issue, *ante*, at 439–440, n. 6, the majority implicitly declines to defer to a portion of the ARB's ruling as well, rejecting the ARB's ruling that § 1514A does not apply to the household employees of public company officers and employees, *ante*, at 445–446, and n. 11.

board to which the Secretary of Labor has delegated authority "in review or on appeal" in connection with § 1514A proceedings. 75 Fed. Reg. 3924 (2010). According to petitioners, the ARB's rulings are entitled to deference because the "Secretary is responsible for enforcing Section 1514A both through investigation and through formal adjudication." Brief for Petitioners 61. That is right as far as it goes, but even if the Secretary has the power to investigate and adjudicate § 1514A claims, Congress did not delegate authority to the Secretary to "make rules carrying the force of law," *Mead*, 533 U. S., at 226–227. Congress instead delegated that power to the SEC: Section 3(a) of the Sarbanes-Oxley Act, codified at 15 U. S. C. § 7202(a), provides that the SEC "shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act." So if any agency has the authority to resolve ambiguities in § 1514A with the force of law, it is the SEC, not the Department of Labor. See *Martin* v. *Occupational Safety and Health Review Comm'n*, 499 U. S. 144, 154 (1991). The SEC, however, has not issued a regulation applying § 1514A whistleblower protection to employees of public company contractors. And while the majority notes that the SEC may share the (incorrect) view that the Department of Labor has interpretive authority regarding § 1514A, *ante*, at 439–440, n. 6, the majority cites nothing to suggest that one agency may transfer authority unambiguously delegated to it by Congress to a different agency simply by signing onto an *amicus* brief.

That Congress did not intend for the Secretary to resolve ambiguities in the law is confirmed by § 1514A's mechanism for judicial review. The statute does not merely permit courts to review the Secretary's final adjudicatory rulings under the Administrative Procedure Act's deferential standard. It instead allows a claimant to bring an action in a federal district court, and allows district courts to adjudicate such actions *de novo*, in any case where the Secretary has

not issued a final decision within 180 days. That is a conspicuously short amount of time in light of the three-tiered process of agency review of § 1514A claims. See *ante*, at 436–437. As a result, even if Congress had not delegated to the SEC the authority to resolve ambiguities in § 1514A, the muscular scheme of judicial review suggests that Congress would have wanted federal courts, and not the Secretary of Labor, to have that power. See *Mead*, 533 U. S., at 232 (declining to defer to Customs Service classifications where, among other things, the statute authorized "independent review of Customs classifications by the [Court of International Trade]").

As to the second *Mead* requirement, even if Congress had delegated authority to the Secretary to make "rules carrying the force of law," the "agency interpretation claiming deference" in this case was not "promulgated in the exercise of that authority." *Id.*, at 226–227. That is because the Secretary has explicitly vested any policymaking authority he may have with respect to § 1514A in the Occupational Safety and Health Administration (OSHA) instead of the ARB. See 67 Fed. Reg. 65008 (2002). In fact, the Secretary has expressly withdrawn from the ARB any power to deviate from the rules OSHA issues on the Department of Labor's behalf. 75 Fed. Reg. 3925 ("The [ARB] shall not have jurisdiction to pass on the validity of any portion of the Code of Federal Regulations that has been duly promulgated by the Department of Labor and shall observe the provisions thereof, where pertinent, in its decisions").

OSHA has promulgated regulations supporting the majority's reading of § 1514A. See 29 CFR §§ 1980.101(f)–(g) (2013). The Secretary, however, has expressly disclaimed any claim of deference to them. See Brief for United States as *Amicus Curiae* 33, n. 8. As a result, the ARB's understanding of § 1514A's coverage in *Spinner* was not an "exercise of [the Secretary's] authority" to make rules carrying the force of law, *Mead*, 533 U. S., at 226–227, but rather the

ARB's necessary compliance with a regulation that no one claims is deserving of deference in the first place. See *Spinner*, ALJ No. 2010–SOX–029, at 10 (recognizing that "the ARB is bound by the [Department of Labor] regulations").

In the absence of *Chevron* deference, the ARB's decision in *Spinner* may claim only "respect according to its persuasiveness" under *Skidmore* v. *Swift & Co.*, 323 U. S. 134 (1944). See *Mead*, 533 U. S., at 221. But the ARB's decision is unpersuasive, for the many reasons already discussed.

* * *

The Court's interpretation of § 1514A undeniably serves a laudatory purpose. By covering employees of every officer, employee, and contractor of every public company, the majority's interpretation extends § 1514A's protections to the outside lawyers and accountants who could have helped prevent the Enron fraud.

But that is not the statute Congress wrote. Congress envisioned a system in which public company employees would be covered by § 1514A, and in which outside lawyers, investment advisers, and accountants would be regulated by the SEC and PCAOB. Congress did not envision a system in which employees of other private businesses—such as cleaning and construction company workers who have little interaction with investor-related activities and who are thus ill suited to assist in detecting fraud against shareholders—would fall within § 1514A. Nor, needless to say, did it envision § 1514A applying to the household employees of millions of individuals who happen to work for public companies—housekeepers, gardeners, and babysitters who are also poorly positioned to prevent fraud against public company investors. And to the extent § 1514A may have been underinclusive as first drafted, Congress has shown itself capable of filling in any gaps. See, *e. g.*, Dodd-Frank Wall Street Reform and Consumer Protection Act, §§ 922, 929A, 124 Stat. 1848, 1852 (extending § 1514A to credit rating agencies and public company subsidiaries); § 922, *id.*, at 1841–1848

(codifying additional whistleblower incentive and protection program at 15 U. S. C. § 78u–6).

The Court's decision upsets the balance struck by Congress. Fortunately, just as Congress has added further protections to the system it originally designed when necessary, so too may Congress now respond to limit the far-reaching implications of the Court's interpretation.[12] But because that interpretation relies on a debatable view of § 1514A's text, is inconsistent with the statute's titles and context, and leads to absurd results that Congress did not intend, I respectfully dissent.

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[12] Congress could, for example, limit § 1514A to contractor employees in only those professions that can assist in detecting fraud on public company shareholders, or it could restrict the fraud reports that trigger whistleblower protection to those that implicate the interests of public company investors, see n. 9, *supra*.

Reporter's Note

The next page is purposely numbered 801. The numbers between 480 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 7, 2013, THROUGH
MARCH 3, 2014

OCTOBER 7, 2013

Certiorari Granted—Vacated and Remanded

No. 12–9499. RUIZ-SANCHEZ *v.* UNITED STATES. C. A. 5th Cir. Reported below: 505 Fed. Appx. 370; and

No. 13–5257. SMITH *v.* UNITED STATES. C. A. 11th Cir. Reported below: 518 Fed. Appx. 774. Motions of petitioners for leave to proceed *in forma pauperis* granted. Certiorari granted, judgments vacated, and cases remanded for further consideration in light of *Descamps* v. *United States*, 570 U. S. 254 (2013).

No. 12–9877. INGRAM *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th 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 *McQuiggin* v. *Perkins*, 569 U. S. 383 (2013).

No. 12–10639. SANCHEZ *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 *Peugh* v. *United States*, 569 U. S. 530 (2013). Reported below: 710 F. 3d 724.

No. 13–7. FIFTH THIRD BANCORP *v.* ARLINGTON VIDEO PRODUCTIONS, INC. C. A. 6th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Comcast Corp.* v. *Behrend*, 569 U. S. 27 (2013). Reported below: 515 Fed. Appx. 426.

No. 13–5059. O'NEIL *v.* UNITED STATES. C. A. 8th 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 *Alleyne* v. *United States*, 570 U. S. 99 (2013). Reported below: 496 Fed. Appx. 694.

Certiorari Dismissed

No. 12–8785. Escobar de Jesus *v.* United States. C. A. 1st 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. 12–9936. Honesto *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.

No. 12–9999. King *v.* United States District Court for the Central District of California 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.

No. 12–10044. Martin *v.* Sullivan, 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*).

No. 12–10056. O'Connor *v.* Brown 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.

No. 12–10111. Cobble *v.* Oubre, Warden, 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.

No. 12–10172. Propes *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.

No. 12–10196. Swain *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: 117 So. 3d 424.

No. 12–10352. Cary *v.* Virginia. Sup. Ct. Va. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 12–10435. McCartney *v.* Louisiana. Sup. Ct. La. 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: 2012–2376 (La. 4/5/13), 110 So. 3d 1072.

No. 12–10459. Cobble *v.* McLaughlin, 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.

No. 12–10510. Butler *v.* United States. 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. 12–10614. Scott *v.* Byars, Director, South Carolina Department of Corrections. 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. Reported below: 516 Fed. Appx. 281.

No. 12–10630. Corines *v.* Hartford Life Insurance Co. et al. 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. 12–10875. Tricome *v.* eBay, Inc. 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. Reported below: 486 Fed. Appx. 639.

No. 12–10880. Remmert *v.* San Mateo County Public Guardian. Ct. App. Cal., 1st App. Dist. 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 *Mar-*

tin v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

No. 12–10911. GARCIA *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. 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: 104 App. Div. 3d 874, 960 N. Y. S. 2d 657.

No. 12–10919. DARNELL *v.* STEPHENS, 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. 12–10927. JACKSON *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Dist. Ct. App. Fla., 4th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 12–10965. ADAMS *v.* UNITED STATES. 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. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 13–5035. PEREZ *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. 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: 109 So. 3d 787.

No. 13–5068. JONES *v.* VOUITTON. 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. Reported below: 544 Fed. Appx. 460.

No. 13–5102. MILLS *v.* SHEAHAN, SUPERINTENDENT, FIVE POINTS CORRECTIONAL FACILITY. C. A. 2d Cir. Motion of peti-

tioner 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. 13–5300. CRAIN *v.* CECIL ET AL. Ct. App. Tex., 10th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–5330. DYDZAK *v.* SCHWARZENEGGER 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.

No. 13–5444. LEWIS *v.* FORMAN, CLERK, CIRCUIT COURT OF FLORIDA, BROWARD COUNTY. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 117 So. 3d 411.

No. 13–5493. SNEED *v.* PAN AMERICAN HOSPITAL BOARD OF DIRECTORS ET AL. 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: 139 So. 3d 901.

No. 13–5549. ROGERS *v.* WISCONSIN. Ct. App. Wis. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 2013 WI App 1, 345 Wis. 2d 398, 824 N. W. 2d 928.

No. 13–5725. RICHARDS *v.* SMITH, SUPERINTENDENT, MID-STATE CORRECTIONAL FACILITY, ET AL. 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. 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. 13–5830. SMITH *v.* IDAHO. Sup. Ct. Idaho. 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. 13–5841. SMITH *v.* IDAHO. Ct. App. Idaho. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–5926. MARCUSSE *v.* FLOURNOY, 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. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 13–6038. WILLIAMS *v.* UNITED STATES MARSHALS SERVICE ET AL. C. A. 11th Cir.;

No. 13–6039. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir.; and

No. 13–6040. WILLIAMS *v.* UNITED STATES ET AL. C. A. 11th Cir. Motions 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. 13A120. MANGINO *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CRESSON, ET AL. Application for certificate of appealability, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. D–2726. IN RE DISBARMENT OF PARAGANO. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. 13M1. WESSELL ET AL. *v.* TOPIWALA ET AL.;

No. 13M4. MOSES *v.* TEXAS COMMISSION ON ENVIRONMENTAL QUALITY;

No. 13M5. RAYESS *v.* EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES; and

No. 13M12. SEALED APPELLANT *v.* SEALED APPELLEE ET AL. Motions for leave to file petitions for writs of certiorari under seal with redacted copies for the public record granted.

No. 13M2. KARIM-SEIDOU *v.* HOSPITAL OF SAINT RAPHAEL;
No. 13M6. JEFFREY S. *v.* JENNIFER S.;
No. 13M7. SOLOMON *v.* SOCIAL SECURITY ADMINISTRATION ET AL.;
No. 13M8. LOVING *v.* LEW, SECRETARY OF THE TREASURY;
No. 13M9. WRIGHT *v.* WEBBER ET AL.;
No. 13M11. BRYANT *v.* UNITED STATES;
No. 13M14. NOTTINGHAM *v.* RICHARDSON, SHERIFF, RANDALL COUNTY, TEXAS, ET AL.;
No. 13M15. MORRIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION;
No. 13M17. STOKES *v.* VIRGINIA DEPARTMENT OF CORRECTIONS;
No. 13M18. LEWIS *v.* STERNES ET AL.;
No. 13M19. TORRES-CUESTA *v.* BERBERICH ET AL.;
No. 13M20. MCDONALD *v.* CARPENTER;
No. 13M21. SABO *v.* STEVENSON, WARDEN;
No. 13M24. SCHMIDT *v.* WISCONSIN DIVISION OF VOCATIONAL REHABILITATION;
No. 13M28. WILLIE *v.* SCHULTIES;
No. 13M29. STEVENSON *v.* NEW YORK DEPARTMENT OF CORRECTIONS;
No. 13M31. ALONZO *v.* MCDONALD, WARDEN; and
No. 13M32. LEVINSON *v.* MCCULLOUGH ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 13M3. POTTS *v.* HOWARD UNIVERSITY HOSPITAL ET AL.; and
No. 13M22. WILLIAMS *v.* DEPARTMENT OF THE AIR FORCE. Motions for leave to proceed as veterans granted.

No. 13M10. MATHIS *v.* AT&T SBC COMMUNICATIONS ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 13M16. HEIL *v.* NEW 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. 13M23. HAIRSTON *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 13M25. DISMUKES *v.* ILLINOIS DEPARTMENT OF EMPLOYMENT SECURITY ET AL.; and

No. 13M26. REYES *v.* FLANAGAN, JUDGE, CIRCUIT COURT OF ILLINOIS, COOK COUNTY. Motions for leave to proceed as veterans denied.

No. 13M27. LAM *v.* HARRIS, ATTORNEY GENERAL OF CALIFORNIA, ET AL. 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. 13M30. JPMORGAN CHASE & CO. ET AL. *v.* FEDERAL HOUSING FINANCE AGENCY, AS CONSERVATOR FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION ET AL. Motion for leave to intervene to file petition for writ of certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 13M33. SAFOUANE ET UX. *v.* HASSETT ET AL. Motion for leave to proceed *in forma pauperis* with declaration of indigency under seal denied.

No. 65, Orig. TEXAS *v.* NEW MEXICO. Motion of the River Master for fees and reimbursement of expenses granted, and the River Master is awarded a total of $6,889.03 for the period July 1, 2012, through June 30, 2013, to be paid equally by the parties. [For earlier order herein, see, *e. g.*, 568 U. S. 808.]

No. 12–138. BG GROUP PLC *v.* REPUBLIC OF ARGENTINA. C. A. D. C. Cir. [Certiorari granted, 569 U. S. 1029.] Motion of petitioner to dispense with printing joint appendix granted.

No. 12–158. BOND *v.* UNITED STATES. C. A. 3d Cir. [Certiorari granted, 568 U. S. 1140.] Motion of Cato Institute et al. for leave to participate in oral argument as *amici curiae* and for divided argument denied.

No. 12–417. SANDIFER ET AL. *v.* UNITED STATES STEEL CORP. C. A. 7th Cir. [Certiorari granted, 568 U. S. 1156.] Motion of

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

No. 12–574. WALDEN *v.* FIORE ET AL. C. A. 9th Cir. [Certiorari granted, 568 U. S. 1211.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–696. TOWN OF GREECE, NEW YORK *v.* GALLOWAY ET AL. C. A. 2d Cir. [Certiorari granted, 569 U. S. 993.] Motion of Faith and Action Networks for leave to file brief as *amicus curiae* out of time granted.

No. 12–794. WHITE, WARDEN *v.* WOODALL. C. A. 6th Cir. [Certiorari granted, 570 U. S. 930.] Motion of respondent for appointment of counsel granted. Laurence E. Komp, Esq., of Manchester, Mo., is appointed to serve as counsel for respondent in this case.

No. 12–895. ROSEMOND *v.* UNITED STATES. C. A. 10th Cir. [Certiorari granted, 569 U. S. 1003.] Motion of petitioner for leave to file volume II of the joint appendix under seal granted.

No. 12–930. MAYORKAS, DIRECTOR, UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, ET AL. *v.* CUELLAR DE OSORIO ET AL. C. A. 9th Cir. [Certiorari granted, 570 U. S. 916.] Motion of the Solicitor General to dispense with printing joint appendix granted.

No. 12–1182. ENVIRONMENTAL PROTECTION AGENCY ET AL. *v.* EME HOMER CITY GENERATION, L. P., ET AL.; and

No. 12–1183. AMERICAN LUNG ASSN. ET AL. *v.* EME HOMER CITY GENERATION, L. P., ET AL. C. A. D. C. Cir. [Certiorari granted, 570 U. S. 916.] Motion of the federal parties to deem the Court of Appeals' joint appendix to be volumes 2 through 8 of this Court's joint appendix granted. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 12–1226. YOUNG *v.* UNITED PARCEL SERVICE, INC. C. A. 4th Cir.;

No. 12–1349. UNITED STATES EX REL. NATHAN *v.* TAKEDA PHARMACEUTICALS NORTH AMERICA, INC., ET AL. C. A. 4th Cir.;

No. 12–1351. MEDTRONIC, INC. *v.* STENGEL ET UX. C. A. 9th Cir.;

No. 12–1497. KELLOGG BROWN & ROOT SERVICES, INC., ET AL. *v.* UNITED STATES EX REL. CARTER. C. A. 4th Cir.; and

No. 13–43. MAERSK DRILLING USA, INC. *v.* TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC. C. A. Fed. Cir. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 12–1281. NATIONAL LABOR RELATIONS BOARD *v.* NOEL CANNING ET AL. C. A. D. C. Cir. [Certiorari granted, 570 U. S. 916.] Motion of petitioner to dispense with printing joint appendix granted.

No. 12–8561. PAROLINE *v.* UNITED STATES ET AL. C. A. 5th Cir. [Certiorari granted, 570 U. S. 931.] Motion of petitioner for appointment of counsel granted. Stanley G. Schneider, Esq., of Houston, Tex., is appointed to serve as counsel for petitioner in this case.

No. 12–9183. CUTAIA *v.* FLORIDA ET AL. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 956] denied.

No. 12–9317. COBBLE *v.* OWENS, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Ga. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 992] denied.

No. 12–9318. COBBLE *v.* FIELDS ET AL. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 992] denied.

No. 12–9337. IN RE PRESLEY, AKA YOUNG. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 971] denied.

No. 12–9529. IN RE COBBLE. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 1017] denied.

No. 12–9807. CARR *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [569 U. S. 1028] denied.

No. 12–9824. CARDONA *v.* THOMAS, WARDEN. C. A. 3d Cir. Motion of petitioner for reconsideration of order denying leave to

proceed *in forma pauperis* [569 U. S. 992] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 12–9941. ANDERSON *v.* PRIVATE CAPITAL GROUP ET AL. C. A. 9th Cir.;

No. 12–9976. THURBER *v.* BANK OF NEW YORK MELLON ET AL. C. A. 1st Cir.;

No. 12–9981. FINKELSON *v.* YUEN. Ct. App. Cal., 1st App. Dist., Div. 2;

No. 12–10006. MISSUD *v.* D. R. HORTON, INC., ET AL. Ct. App. Cal., 1st App. Dist., Div. 3;

No. 12–10073. ALEXANDER *v.* FIRST WIND ENERGY, LLC, ET AL. C. A. 1st Cir.;

No. 12–10108. RATHELL, FKA CHAKKOUR *v.* CHAKKOUR. Ct. App. Mich.;

No. 12–10134. DEMAREST *v.* OCWEN LOAN SERVICING, LLC, ET AL. C. A. 9th Cir.;

No. 12–10158. RIVERA *v.* CARY PLACE CONDOMINIUM ASSN. App. Ct. Mass.;

No. 12–10272. MOORE *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir.;

No. 12–10358. DULAURENCE *v.* TELEGEN ET AL. App. Ct. Mass.;

No. 12–10412. KELMAR *v.* CORSTORPHINE ET AL. Ct. App. Cal., 2d App. Dist., Div. 6;

No. 12–10426. ROACH *v.* HAGEL, SECRETARY OF DEFENSE. C. A. 4th Cir.;

No. 12–10631. TITUS-MORRIS *v.* BANC OF AMERICA CARD SERVICING CORP. C. A. 3d Cir.;

No. 12–10656. PETERSON *v.* AYERS, ARCHITECT OF THE CAPITOL. C. A. D. C. Cir.;

No. 12–10678. LUIS REYES *v.* DAVIS, WARDEN. C. A. 4th Cir.;

No. 12–10756. WESTMORELAND *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir.;

No. 12–10883. FOSKEY *v.* PLUS PROPERTIES, LLC. Ct. App. D. C.;

No. 12–10884. HARTMAN *v.* PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir.;

No. 12–10941. Moore *v.* Revlon Consumer Products Corp. et al. Ct. App. Ga.;

No. 12–10963. Frantz *v.* Walled et al. C. A. 11th Cir.;

No. 12–10989. Fabian *v.* Guttman. C. A. 4th Cir.;

No. 12–11001. Kashfian *v.* Abrams et al. Ct. App. Cal., 2d App. Dist., Div. 4;

No. 12–11004. Townsend *v.* New Jersey Transit. C. A. 3d Cir.;

No. 13–5040. Bilyeu *v.* Metropolitan Government of Nashville and Davidson County, Tennessee, et al. C. A. 6th Cir.;

No. 13–5056. Williams *v.* Pepperidge Farm, Inc. C. A. 4th Cir.;

No. 13–5071. In re Williams;

No. 13–5109. DesAutel *v.* Dupris et al. C. A. 9th Cir.;

No. 13–5207. Hill *v.* Hawks, Judge, Circuit Court of the City of Portsmouth, Virginia, et al. C. A. 4th Cir.;

No. 13–5239. Graham *v.* Illinois Department of Juvenile Justice et al. C. A. 7th Cir.;

No. 13–5252. Davison *v.* United States. C. A. 5th Cir.;

No. 13–5322. Beach-Mathura *v.* Miami-Dade County Public Schools et al. Sup. Ct. Fla.;

No. 13–5323. Adams *v.* Montenay Power Corp. et al. Sup. Ct. Fla.;

No. 13–5431. Humphrey *v.* Beers, Acting Secretary of Homeland Security. C. A. 11th Cir.;

No. 13–5538. Lance *v.* United States. C. A. 6th Cir.;

No. 13–5546. Dos Santos *v.* Power Authority of State of New York et al. App. Div., Sup. Ct. N. Y., 2d Jud. Dept.;

No. 13–5597. Washington *v.* Kroger Limited Partnership I. C. A. 4th Cir.;

No. 13–5604. Bullard *v.* Pennsylvania Bureau of Unemployment and Allowances. C. A. 3d Cir.;

No. 13–5640. McDaniel *v.* Merit Systems Protection Board et al. C. A. Fed. Cir.;

No. 13–5655. Hailey *v.* Donahoe, Postmaster General. C. A. 4th Cir.;

No. 13–5789. Decubas *v.* United States. C. A. 11th Cir.; and

No. 13–5855. Green *v.* American Federation of Labor and Congress of Industrial Organizations et al. C. A.

D. C. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until October 28, 2013, 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. 12–9975. Franza *v.* Sheahan. Ct. App. N. Y. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [570 U. S. 914] denied.

No. 12–10110. Staffney *v.* MacLaren, Warden. Ct. App. Mich. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [570 U. S. 914] denied.

No. 13–130. Thurber *v.* Aetna Life Insurance Co. et al. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. Justice Breyer took no part in the consideration or decision of this petition.

No. 12–1420. In re Stierhoff;
No. 12–10469. In re Hill;
No. 12–10685. In re Seawright;
No. 12–10720. In re Nicolo;
No. 12–10748. In re Will;
No. 12–10775. In re Newland;
No. 12–10862. In re Brown;
No. 12–10867. In re Crews;
No. 13–200. In re Fields et al.;
No. 13–249. In re Carter;
No. 13–5008. In re Hunt;
No. 13–5055. In re Wells;
No. 13–5186. In re Radcliff;
No. 13–5308. In re Lennon;
No. 13–5350. In re Brown;
No. 13–5371. In re Fairley;
No. 13–5390. In re Rivera;
No. 13–5467. In re Gssime;
No. 13–5494. In re Ramos;
No. 13–5511. In re Baugus;
No. 13–5527. In re Harris;
No. 13–5537. In re De La Cruz;
No. 13–5547. In re Foster;

No. 13–5551. IN RE SUTTON;
No. 13–5559. IN RE SMITH;
No. 13–5572. IN RE KIMBALL;
No. 13–5639. IN RE PITTMAN;
No. 13–5649. IN RE ROBINSON;
No. 13–5691. IN RE PICKETT;
No. 13–5728. IN RE PALACIOS;
No. 13–5748. IN RE POLLY;
No. 13–5863. IN RE HACKNEY;
No. 13–5897. IN RE DEAN;
No. 13–5950. IN RE DAVIS;
No. 13–5991. IN RE NORIEGA;
No. 13–6032. IN RE MICOLO;
No. 13–6116. IN RE CAPOZZI;
No. 13–6243. IN RE MOORE; and
No. 13–6245. IN RE ROWLAND. Petitions for writs of habeas corpus denied.

No. 13–5596. IN RE KILGORE. Petition for writ of habeas corpus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10869. IN RE DAVIS. 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 KAGAN took no part in the consideration or decision of this motion and this petition.

No. 13–5416. IN RE CROSBY. 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. 12–10037. IN RE WARD;
No. 12–10049. IN RE SQUIRES;
No. 12–10537. IN RE HIGGINS;
No. 12–10613. IN RE YELVERTON;
No. 12–10792. IN RE SPENCER;
No. 13–73. IN RE DEL RIO;

No. 13–5072. In re De La Cruz;
No. 13–5225. In re Roberts;
No. 13–5501. In re Isom; and
No. 13–5545. In re Elso. Petitions for writs of mandamus denied.

No. 12–10240. In re Dunbar. 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. 12–10903. In re Hinkle. 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. 12–10114. In re Adams;
No. 12–10731. In re Wei Zhou;
No. 13–25. In re Hollander;
No. 13–155. In re Coyle;
No. 13–5339. In re Pillette; and
No. 13–5726. In re Colbert. Petitions for writs of mandamus and/or prohibition denied.

No. 12–10451. In re Dixon. Petition for writ of mandamus and/or prohibition denied. Justice Sotomayor took no part in the consideration or decision of this petition.

No. 12–10998. In re Traylor. 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. 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 Kagan took no part in the consideration or decision of this motion and this petition.

No. 13–5062. IN RE WARREN. 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. 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. 12–668. NATIVE VILLAGE OF EYAK ET AL. *v.* PRITZKER, SECRETARY OF COMMERCE. C. A. 9th Cir. Certiorari denied. Reported below: 688 F. 3d 619.

No. 12–691. HAMMOND *v.* SHEETS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–964. HAAGENSEN *v.* PENNSYLVANIA STATE POLICE ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 490 Fed. Appx. 447.

No. 12–973. SANDHILL AMUSEMENTS, INC., ET AL. *v.* NORTH CAROLINA ET AL. Sup. Ct. N. C. Certiorari denied. Reported below: 366 N. C. 323, 734 S. E. 2d 570.

No. 12–1008. KOHL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 699 F. 3d 935.

No. 12–1010. THORSON *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 701 F. 3d 444.

No. 12–1043. ATLANTIC MEDICAL CENTER, INC., ET AL. *v.* GONZALEZ FELICIANO, SECRETARY, PUERTO RICO DEPARTMENT OF HEALTH, ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 695 F. 3d 83.

No. 12–1046. CRAIG *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 694 F. 3d 509.

No. 12–1093. DEMAHY *v.* SCHWARZ PHARMA, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 702 F. 3d 177.

No. 12–1100. GARCIA *v.* NEVADA; and

No. 12–9118. JACKSON *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 128 Nev. 598, 291 P. 3d 1274.

No. 12–1111. ESTATE OF SMITH, BY AND THROUGH THE ADMINISTRATRIX OF HIS ESTATE, RICHARDSON, ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 436.

No. 12–1126. DORMESCAR *v.* HOLDER, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 690 F. 3d 1258.

No. 12–1150. BLACKWATER SECURITY CONSULTING, LLC, ET AL. *v.* DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, DEPARTMENT OF LABOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 498.

No. 12–1172. LAPLANT, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* NORTHWESTERN MUTUAL LIFE INSURANCE CO. C. A. 7th Cir. Certiorari denied. Reported below: 701 F. 3d 1137.

No. 12–1185. JEFFRIES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 692 F. 3d 473.

No. 12–1191. BIG SKY COLONY, INC., ET AL. *v.* MONTANA DEPARTMENT OF LABOR AND INDUSTRY. Sup. Ct. Mont. Certiorari denied. Reported below: 368 Mont. 66, 291 P. 3d 1231.

No. 12–1193. WISE ET UX. *v.* VILSACK, SECRETARY OF AGRICULTURE. C. A. 4th Cir. Certiorari denied. Reported below: 496 Fed. Appx. 283.

No. 12–1202. LOBO ET AL. *v.* CELEBRITY CRUISES, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 704 F. 3d 882.

No. 12–1212. GOMEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 705 F. 3d 68.

No. 12–1221. SNYDER, GOVERNOR OF MICHIGAN, ET AL. *v.* AMERICAN BEVERAGE ASSN.;

No. 12–1224. MICHIGAN BEER & WINE WHOLESALERS ASSN. *v.* AMERICAN BEVERAGE ASSN.; and

No. 12–1344. AMERICAN BEVERAGE ASSN. *v.* SNYDER, GOVERNOR OF MICHIGAN, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 735 F. 3d 362.

No. 12–1230. TOYOTA MOTOR CORP. ET AL. *v.* CHOI ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 3d 1122.

No. 12–1231. FREEMAN *v.* KEY LARGO VOLUNTEER FIRE & RESCUE DEPARTMENT, INC., ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 494 Fed. Appx. 940.

No. 12–1233. AMERICAN MANAGEMENT SERVICES, LLC, DBA PINNACLE *v.* DEPARTMENT OF THE ARMY. C. A. 4th Cir. Certiorari denied. Reported below: 703 F. 3d 724.

No. 12–1238. MOLLAGHAN ET AL. *v.* VARNELL ET AL. Sup. Ct. Miss. Certiorari denied. Reported below: 105 So. 3d 291.

No. 12–1239. DOE ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 705 F. 3d 133.

No. 12–1245. FINJAN, INC. *v.* PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 491 Fed. Appx. 194.

No. 12–1252. JEFFERSON COUNTY BOARD OF EDUCATION *v.* PHILLIP C. ET UX., ON BEHALF OF THEIR SON A. C. C. A. 11th Cir. Certiorari denied. Reported below: 701 F. 3d 691.

No. 12–1261. PENTONVILLE DEVELOPERS, LTD., ET AL. *v.* REPUBLIC OF IRAQ ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 694 F. 3d 1122.

No. 12–1270. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 698 F. 3d 374.

No. 12–1274. HALL *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 269.

No. 12–1276. JONES *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 945.

No. 12–1278. Nebraska *v.* Elise M. et al. Sup. Ct. Neb. Certiorari denied. Reported below: 284 Neb. 834, 825 N. W. 2d 173.

No. 12–1280. Cellmark Paper Inc. *v.* Ames Merchandising Corp. C. A. 2d Cir. Certiorari denied. Reported below: 506 Fed. Appx. 70.

No. 12–1282. Cornelius *v.* Nelson et al. App. Ct. Conn. Certiorari denied. Reported below: 138 Conn. App. 1, 51 A. 3d 1144.

No. 12–1286. Dinicola *v.* Oregon Department of Revenue. Ct. App. Ore. Certiorari denied. Reported below: 246 Ore. App. 526, 268 P. 3d 632.

No. 12–1287. C. C. S. *v.* Heart of Adoptions, Inc. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 121 So. 3d 1043.

No. 12–1290. Impact Energy Resources, LLC, et al. *v.* Jewell, Secretary of the Interior, et al.; and

No. 12–1291. Uintah County, Utah, et al. *v.* Jewell, Secretary of the Interior, et al. C. A. 10th Cir. Certiorari denied. Reported below: 693 F. 3d 1239.

No. 12–1295. Buckner *v.* United Parcel Service, Inc. C. A. 4th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 709.

No. 12–1296. Ray et al. *v.* OSU Student Alliance et al. C. A. 9th Cir. Certiorari denied. Reported below: 699 F. 3d 1053.

No. 12–1298. Murrin *v.* Office of Lawyers Professional Responsibility Board. Sup. Ct. Minn. Certiorari denied. Reported below: 821 N. W. 2d 195.

No. 12–1299. Coplan *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 703 F. 3d 46.

No. 12–1300. Huang *v.* CNA Financial Corp. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 112243–U.

No. 12–1306. BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION *v.* POUNCIL. C. A. 9th Cir. Certiorari denied. Reported below: 704 F. 3d 568.

No. 12–1311. BENN *v.* KISSANE ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 510 Fed. Appx. 34.

No. 12–1312. SHARMA ET UX. *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 703 F. 3d 318.

No. 12–1316. PINE BAR RANCH, LLC, ET AL. *v.* INTERIOR BOARD OF INDIAN APPEALS, DEPARTMENT OF THE INTERIOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 491.

No. 12–1320. TAYLOR *v.* TAYLOR. C. A. 11th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 854.

No. 12–1321. SHOEMAKER *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 12–1322. LEWIS *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 12–1324. RICE ET AL. *v.* INTERFOOD, INC., ET AL. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 404 S. W. 3d 272.

No. 12–1325. COREVALVE, INC., ET AL. *v.* EDWARDS LIFESCIENCES AG ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 699 F. 3d 1305.

No. 12–1327. TAYLOR *v.* WINNECOUR. C. A. 3d Cir. Certiorari denied.

No. 12–1328. PAUL *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. D. C. Cir. Certiorari denied.

No. 12–1329. RECINTO ET AL. *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 706 F. 3d 1171.

No. 12–1330. SHECHET *v.* KIM ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 366.

No. 12–1331. FRICK ET AL. *v.* CITY OF SALINA, KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 46 Kan. App. 2d xii, 263 P. 3d 223.

No. 12–1332. WHITE *v.* CITY OF TAMPA, FLORIDA, ET AL. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 103 So. 3d 153.

No. 12–1334. GOLDBLATT *v.* GEIGER ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–1335. GRAY *v.* CITY OF JACKSONVILLE, FLORIDA. C. A. 11th Cir. Certiorari denied. Reported below: 492 Fed. Appx. 1.

No. 12–1338. GLADDEN *v.* CITY OF DILLINGHAM, ALASKA. Sup. Ct. Alaska. Certiorari denied.

No. 12–1339. NOVARTIS PHARMACEUTICALS CORP. *v.* FUSSMAN, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF FUSSMAN. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 215.

No. 12–1343. LUEVANO *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 12–1345. BURTON *v.* OWENS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 385.

No. 12–1346. SHAHID *v.* BOROUGH OF EDDYSTONE, PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 503 Fed. Appx. 184.

No. 12–1348. LINGFEI SUN *v.* CITY OF NEW YORK, NEW YORK, ET AL. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 99 App. Div. 3d 673, 952 N. Y. S. 2d 98.

No. 12–1350. WEISSHAUS *v.* PORT AUTHORITY OF NEW YORK AND NEW JERSEY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 497 Fed. Appx. 102.

No. 12–1353. WOOLLEY *v.* HARRINGTON, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 702 F. 3d 411.

No. 12–1354. RAYLON, LLC *v.* COMPLUS DATA INNOVATIONS, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 700 F. 3d 1361.

No. 12–1355. JORDAN RIVER RESTORATION NETWORK ET AL. *v.* SALT LAKE CITY CORPORATION. Sup. Ct. Utah. Certiorari denied. Reported below: 2012 UT 84, 299 P. 3d 990.

No. 12–1356. COKER ET AL. *v.* WELLS. C. A. 7th Cir. Certiorari denied. Reported below: 707 F. 3d 756.

No. 12–1359. SEMBLY ET AL. *v.* U. S. BANK N. A. ND. C. A. 6th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 443.

No. 12–1361. WILLIAMS *v.* PLEDGED PROPERTY II, LLC, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 465.

No. 12–1363. EVANS ET AL. *v.* CITY OF DURHAM, NORTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 703 F. 3d 636.

No. 12–1364. MCCARTHY *v.* INTERNATIONAL BOUNDARY AND WATER COMMISSION: UNITED STATES AND MEXICO. C. A. Fed. Cir. Certiorari denied. Reported below: 497 Fed. Appx. 4.

No. 12–1367. UNDERWOOD *v.* HARKINS, CLERK, SUPERIOR COURT OF GEORGIA, LUMPKIN COUNTY. C. A. 11th Cir. Certiorari denied. Reported below: 698 F. 3d 1335.

No. 12–1369. HEST TECHNOLOGIES, INC., ET AL. *v.* NORTH CAROLINA EX REL. MCCRORY, GOVERNOR, ET AL. Sup. Ct. N. C. Certiorari denied. Reported below: 366 N. C. 289, 749 S. E. 2d 429.

No. 12–1370. GREIF ET UX. *v.* KIDD ET AL. Ct. App. Ariz. Certiorari denied.

No. 12–1372. INTEMA LTD. *v.* PERKINELMER, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 496 Fed. Appx. 65.

No. 12–1374. WYRZYKOWSKI *v.* MARIN COUNTY, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–1375. RUFF *v.* GILLESS ET AL. C. A. 6th Cir. Certiorari denied.

No. 12–1376. ALLEN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 12–1377. MITRANO *v.* RJM ACQUISITIONS LLC ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 486 Fed. Appx. 349.

No. 12–1380. SHALLOW *v.* SCOFIELD ET AL. C. A. 2d Cir. Certiorari denied.

No. 12–1383. GRIFFIN *v.* S & B ENGINEERS & CONSTRUCTORS, LTD. C. A. 5th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 377.

No. 12–1384. GULLEY *v.* OAKLAND COUNTY, MICHIGAN. C. A. 6th Cir. Certiorari denied. Reported below: 496 Fed. Appx. 603.

No. 12–1385. DAIRYAMERICA, INC., ET AL. *v.* CARLIN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 3d 856.

No. 12–1386. STOGNER *v.* STURDIVANT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 280.

No. 12–1387. MIAMI-DADE COUNTY, FLORIDA *v.* FLORIDA TRANSPORTATION SERVICES, INC. C. A. 11th Cir. Certiorari denied. Reported below: 703 F. 3d 1230.

No. 12–1388. D. A. OSGUTHORPE FAMILY PARTNERSHIP *v.* ASC UTAH, INC., ET AL. Sup. Ct. Utah. Certiorari denied. Reported below: 2013 UT 12, 322 P. 3d 620.

No. 12–1389. RUSSELL ET UX. *v.* ALABAMA. Sup. Ct. Ala. Certiorari denied. Reported below: 154 So. 3d 1099.

No. 12–1390. HARRIS COUNTY, TEXAS *v.* NAGEL, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF CASEY. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 349 S. W. 3d 769.

No. 12–1391. GORDON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 709 F. 3d 749.

No. 12–1392. SAFARI *v.* KAISER FOUNDATION HEALTH PLAN, INC., ET AL. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 12–1393. SIMMONS-MYERS *v.* CAESARS ENTERTAINMENT CORP., DBA HARRAH'S CASINO, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 269.

No. 12–1394. ROACH *v.* MISSOURI. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 391 S. W. 3d 8.

No. 12–1395. PEPPIN *v.* MINNESOTA COMMISSIONER OF PUBLIC SAFETY. Ct. App. Minn. Certiorari denied.

No. 12–1397. MARASCHIELLO *v.* CITY OF BUFFALO POLICE DEPARTMENT ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 709 F. 3d 87.

No. 12–1398. SCHATTEN ET UX. *v.* WEICHERT REALTORS, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 406 Fed. Appx. 589.

No. 12–1399. FIRST KOREAN CHURCH OF NEW YORK, INC. *v.* CHELTENHAM TOWNSHIP ZONING HEARING BOARD ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–1400. VILLENEUVE *v.* FEDERAL GRIEVANCE COMMITTEE. C. A. 2d Cir. Certiorari denied.

No. 12–1402. DIXON *v.* UNIVERSITY OF TOLEDO ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 702 F. 3d 269.

No. 12–1404. STEPHEN SLESINGER, INC. *v.* DISNEY ENTERPRISES, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 702 F. 3d 640.

No. 12–1405. BAUER *v.* 7-ELEVEN, INC., ET AL. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 391 S. W. 3d 25.

No. 12–1407. SKYTRUCK CO., LLC *v.* SIKORSKY AIRCRAFT CORP. ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 879.

No. 12–1409. IN RE GRAND JURY PROCEEDINGS NO. 4–10. C. A. 11th Cir. Certiorari denied. Reported below: 707 F. 3d 1262.

No. 12–1410. TONASKET, DBA STOGIE SHOP, ET AL. *v.* SARGENT, TOBACCO TAX ADMINISTRATOR, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 648.

No. 12–1411. LEVINSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 824.

No. 12–1413. HOLKESVIG *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2013 ND 1, 828 N. W. 2d 546.

No. 12–1414. SERGE *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–1415. Milakovich *v.* Citizenship and Immigration Services-Orlando et al. C. A. 11th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 873.

No. 12–1417. Stayart *v.* Google, Inc. C. A. 7th Cir. Certiorari denied. Reported below: 710 F. 3d 719.

No. 12–1418. Kuhlman *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 711 F. 3d 1321.

No. 12–1421. Kanna *v.* Shinseki, Secretary of Veterans Affairs. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 393.

No. 12–1422. Castleton Plaza, LP *v.* EL–SNPR Notes Holdings, LLC. C. A. 7th Cir. Certiorari denied. Reported below: 707 F. 3d 821.

No. 12–1423. Burlison et vir, as Parents and Next Friends of C. M. *v.* Springfield Public Schools et al. C. A. 8th Cir. Certiorari denied. Reported below: 708 F. 3d 1034.

No. 12–1424. Duran *v.* Florida. C. A. 11th Cir. Certiorari denied.

No. 12–1425. Ruppert, as Trustee of Fairmount Park, Inc., Retirement Savings Plan *v.* Principal Life Insurance Co. C. A. 8th Cir. Certiorari denied. Reported below: 705 F. 3d 839.

No. 12–1426. Masferrer *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 12–1427. Marlborough Holdings Group, Ltd. *v.* Azimut-Benetti, SpA, et al. C. A. 11th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 899.

No. 12–1429. Bakoss *v.* Certain Underwriters at Lloyd's of London Issuing Certificate No. 0510135. C. A. 2d Cir. Certiorari denied. Reported below: 707 F. 3d 140.

No. 12–1430. Brooks *v.* Miller, Acting Warden. C. A. 9th Cir. Certiorari denied.

No. 12–1431. Yadav et ux. *v.* Township of West Windsor, New Jersey, et al. Super. Ct. N. J., App. Div. Certiorari denied.

No. 12–1432. WALKER *v.* CITY OF CHICAGO, ILLINOIS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 593.

No. 12–1434. LOZA SANTIVANEZ ET AL. *v.* ESTADO PLURINACIONAL DE BOLIVIA, FKA LA REPUBLICA DE BOLIVIA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 887.

No. 12–1435. COLE *v.* HOLDER, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 712 F. 3d 517.

No. 12–1436. NORTHERN NATURAL GAS CO. *v.* ONEOK FIELD SERVICES CO., L. L. C., ET AL. Sup. Ct. Kan. Certiorari denied. Reported below: 296 Kan. 906, 296 P. 3d 1106.

No. 12–1437. GUEDRY ET AL. *v.* NEWMAN. C. A. 5th Cir. Certiorari denied. Reported below: 703 F. 3d 757.

No. 12–1438. TADROS *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–1439. BOURGEOIS *v.* MISSISSIPPI VALLEY STATE UNIVERSITY. C. A. 5th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 386.

No. 12–1440. GOLDBLATT *v.* DOERTY, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS JUDGE OF THE SUPERIOR COURT OF WASHINGTON, KING COUNTY. C. A. 9th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 537.

No. 12–1442. CORSI ET AL. *v.* OHIO ELECTIONS COMMISSION. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied. Reported below: 2012-Ohio-4831, 981 N. E. 2d 919.

No. 12–1446. SIRY INVESTMENT, L. P. *v.* NEMAN, INDIVIDUALLY AND AS TRUSTEE OF THE NEMAN FAMILY REVOCABLE TRUST ET AL., ET AL. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 12–1447. RAJALA, TRUSTEE IN BANKRUPTCY FOR THE ESTATE OF GENERATION RESOURCES HOLDING CO., LLC *v.* LOOKOUT WINDPOWER HOLDING CO., LLC. C. A. 10th Cir. Certiorari denied. Reported below: 709 F. 3d 1031.

No. 12–1448. NORFOLK SOUTHERN CORP. *v.* ZIMMERMAN. C. A. 3d Cir. Certiorari denied. Reported below: 706 F. 3d 170.

No. 12–1449. McClain *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 12–1450. Yohanan *v.* City of Fort Lauderdale, Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 12–1451. Wilson, Individually and as Next of Kin and Personal Representative of Wilson, Deceased *v.* City of Lafayette, Colorado, et al. C. A. 10th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 775.

No. 12–1452. Long *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 36 A. 3d 363.

No. 12–1454. Wei Xu *v.* Fangruo Chen. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 12–1455. Corrigan *v.* Pflanz et al. C. A. 4th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 406.

No. 12–1458. Ortiz *v.* Louisiana. Sup. Ct. La. Certiorari denied. Reported below: 2011–2799 (La. 1/29/13), 110 So. 3d 1029.

No. 12–1459. Mills *v.* Prudential Insurance Company of America et al. C. A. 10th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 713.

No. 12–1462. Ring *v.* United States. C. A. D. C. Cir. Certiorari denied. Reported below: 706 F. 3d 460.

No. 12–1463. Warmbrod *v.* USAA County Mutual Insurance Co. Ct. App. Tex., 8th Dist. Certiorari denied. Reported below: 367 S. W. 3d 778.

No. 12–1464. Williams *v.* Zurz et al. C. A. 6th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 367.

No. 12–1466. Crumpler *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 531.

No. 12–1467. Reed et al. *v.* Speck et al. C. A. 6th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 415.

No. 12–1468. Najawicz *v.* Territory of the Virgin Islands. Sup. Ct. V. I. Certiorari denied. Reported below: 58 V. I. 315.

No. 12–1469. Frank H. Rechtzigel Trust et al. *v.* Fischer Market Place, LLP, et al.; and

No. 12–1470. RECHTZIGEL *v.* FISCHER MARKET PLACE, LLP, ET AL. Ct. App. Minn. Certiorari denied.

No. 12–1471. METROPOLITAN ATLANTA TASK FORCE FOR THE HOMELESS *v.* CITY OF ATLANTA, GEORGIA. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 867.

No. 12–1473. WEISS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 794.

No. 12–1474. STEIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 712 F. 3d 1038.

No. 12–1476. VAN AUKEN *v.* CATRON; and
No. 12–1477. VAN AUKEN, TRUSTEE *v.* CATRON. Ct. App. N. M. Certiorari denied.

No. 12–1478. CLEMONS *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 123 So. 3d 1.

No. 12–1479. A. M., A MINOR, BY HER PARENT AND NEXT FRIEND, MCKAY *v.* TACONIC HILLS CENTRAL SCHOOL DISTRICT. C. A. 2d Cir. Certiorari denied. Reported below: 510 Fed. Appx. 3.

No. 12–1482. MARTINEZ, INDIVIDUALLY AND AS PARENT AND NATURAL GUARDIAN OF JIMENEZ, A MINOR *v.* GLASSMAN ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 128 Nev. 916, 381 P. 3d 637.

No. 12–1483. NAVELLIER ET AL. *v.* TOWN OF MANALAPAN, FLORIDA, ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 110 So. 3d 441.

No. 12–1484. LUMINANT GENERATION CO. LLC ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 841.

No. 12–1486. HERNANDEZ-MADRID *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 493 Fed. Appx. 822.

No. 12–1487. HAYDEL ET AL. *v.* ZODIAC CORP., LTD., ET AL. Sup. Ct. La. Certiorari denied. Reported below: 2012–1472 (La. 3/19/13), 112 So. 3d 209.

No. 12–1488. HASKELL *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 538.

No. 12–1489. HOLLANDER *v.* BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 727.

No. 12–1490. MOOSE *v.* MACDONALD. C. A. 4th Cir. Certiorari denied. Reported below: 710 F. 3d 154.

No. 12–1491. SMITH ET AL. *v.* WILSON ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 674.

No. 12–1492. RIVERA *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2013 IL 112467, 986 N. E. 2d 634.

No. 12–1496. HARDWICK, BY AND THROUGH HER PARENTS AND GUARDIANS, HARDWICK ET UX. *v.* HEYWARD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 711 F. 3d 426.

No. 12–1498. WORLD HOLDINGS, LLC *v.* FEDERAL REPUBLIC OF GERMANY ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 701 F. 3d 641.

No. 12–1499. CASTRO *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 295.

No. 12–1500. EDOKOBI *v.* LITTON LOAN SERVICING, LP. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 225.

No. 12–1501. EASTLAND MUSIC GROUP, LLC *v.* LIONSGATE ENTERTAINMENT, INC., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 707 F. 3d 869.

No. 12–7720. STROUTH *v.* COLSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 680 F. 3d 596.

No. 12–8142. BONILLA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 687 F. 3d 188.

No. 12–8385. BARNER *v.* WILLIAMSON, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 461 Fed. Appx. 92.

No. 12–8485. DAVIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 690 F. 3d 226.

No. 12–8536. MAXWELL *v.* STRAUGHN, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 12–8554. ALLEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 482 Fed. Appx. 962.

No. 12–8616. KOUMJIAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 484 Fed. Appx. 966.

No. 12–8631. CAMPBELL *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 12–8729. JACKSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 495 Fed. Appx. 224.

No. 12–8749. ROBINSON *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied. Reported below: 208 Cal. App. 4th 232, 145 Cal. Rptr. 3d 364.

No. 12–8828. GAMES-PEREZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 667 F. 3d 1136.

No. 12–8915. HARRIS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 12–8963. PATTERSON *v.* GODWARD ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 424.

No. 12–8968. ROSS *v.* FLORIDA (Reported below: 88 So. 3d 297); and THOMPSON *v.* FLORIDA (102 So. 3d 714). Dist. Ct. App. Fla., 1st Dist. Certiorari denied.

No. 12–8975. KING *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–8989. RODRIGUEZ *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 495 Fed. Appx. 456.

No. 12–9043. WILLIAMS *v.* FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–9062. ATKINS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 276.

No. 12–9070. MAGEE *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2011–0574 (La. 9/28/12), 103 So. 3d 285.

No. 12–9129. FERGUSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 702 F. 3d 89.

No. 12–9137. Blackmon *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 490 Fed. Appx. 574.

No. 12–9169. Walker *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 488 Fed. Appx. 176.

No. 12–9220. Mitchell *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 802.

No. 12–9289. Valenzuela *v.* Silversmith, Deputy Warden, et al. C. A. 10th Cir. Certiorari denied. Reported below: 699 F. 3d 1199.

No. 12–9291. Carpio-Leon *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 701 F. 3d 974.

No. 12–9311. Phillips *v.* South Carolina. Sup. Ct. S. C. Certiorari denied.

No. 12–9323. Raghunathan et ux. *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 12–9355. Edwards *v.* Steele, Warden. C. A. 8th Cir. Certiorari denied. Reported below: 688 F. 3d 449.

No. 12–9407. Nooner *v.* Hobbs, Director, Arkansas Department of Correction. C. A. 8th Cir. Certiorari denied. Reported below: 689 F. 3d 921.

No. 12–9412. Missud *v.* D. R. Horton, Inc., et al. Sup. Ct. Nev. Certiorari denied. Reported below: 128 Nev. 919, 381 P. 3d 642.

No. 12–9413. Missud *v.* State Bar of California. Sup. Ct. Cal. Certiorari denied.

No. 12–9492. Olick *v.* Kearney et al. C. A. 3d Cir. Certiorari denied. Reported below: 498 Fed. Appx. 153.

No. 12–9494. Mathis *v.* Tennessee. Ct. Crim. App. Tenn. Certiorari denied.

No. 12–9527. Hardy *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 388.

No. 12–9564. Langford *v.* South Carolina. Sup. Ct. S. C. Certiorari denied. Reported below: 400 S. C. 421, 735 S. E. 2d 471.

No. 12–9571. WALKER *v.* FEDERAL RESERVE BANK OF RICHMOND. C. A. 4th Cir. Certiorari denied. Reported below: 479 Fed. Appx. 464.

No. 12–9597. VASQUEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 319.

No. 12–9620. RAND *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 302.

No. 12–9678. JONES *v.* BAGLEY, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 696 F. 3d 475.

No. 12–9685. DAVIS *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 175 Wash. 2d 287, 290 P. 3d 43.

No. 12–9730. NOBLE *v.* DEPARTMENT OF JUSTICE. C. A. Fed. Cir. Certiorari denied. Reported below: 497 Fed. Appx. 18.

No. 12–9738. GRANT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 696 F. 3d 780.

No. 12–9746. FORD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 703 F. 3d 708.

No. 12–9762. RAMOS-MEDINA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 706 F. 3d 932.

No. 12–9771. FENTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 102.

No. 12–9776. JONES *v.* UNITED STATES POSTAL SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 502 Fed. Appx. 930.

No. 12–9836. MCFADDEN *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 391 S. W. 3d 408.

No. 12–9841. MORA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–9891. MCFADDEN *v.* REYNOLDS, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 452.

No. 12–9892. McNeish *v.* Big Sarge Bail Bonds Associates, Inc., et al. C. A. 4th Cir. Certiorari denied. Reported below: 474 Fed. Appx. 999.

No. 12–9895. Brown *v.* Kerestes, Superintendent, State Correctional Institution at Mahanoy. C. A. 3d Cir. Certiorari denied.

No. 12–9896. Basagoitia *v.* Smith, Superintendent, Shawangunk Correctional Facility. C. A. 2d Cir. Certiorari denied.

No. 12–9897. Adames *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 12–9900. Benally *v.* Ryan, Director, Arizona Department of Corrections, et al. C. A. 9th Cir. Certiorari denied.

No. 12–9901. Abboud *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 441 Fed. Appx. 331.

No. 12–9905. Grim *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 705 F. 3d 1284.

No. 12–9906. Atterbury *v.* Varney et al. C. A. 9th Cir. Certiorari denied.

No. 12–9908. Polly *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 12–9910. Pichon *v.* Terrell, Warden. C. A. 5th Cir. Certiorari denied.

No. 12–9911. Whitmore *v.* Ard et al. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 375.

No. 12–9912. Dailey *v.* Warren, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–9915. Scott *v.* Uribe, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–9917. Lynn *v.* Handley et al. C. A. 9th Cir. Certiorari denied.

No. 12–9921. ZUNIGA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–9923. VASQUEZ *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 12–9924. TAYLOR *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–9929. GILMORE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–9930. TAYLOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 12–9934. FORD *v.* MCKESSON. C. A. 5th Cir. Certiorari denied.

No. 12–9935. GUMISIRIZA *v.* BUSBY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–9938. GARCIA *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 20 N. Y. 3d 1098, 988 N. E. 2d 532.

No. 12–9939. GIBBS *v.* DIALESSI. C. A. 11th Cir. Certiorari denied.

No. 12–9942. GILLILLAND *v.* ROAL, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–9943. HUNTER *v.* BRYANT, JUDGE, 22D JUDICIAL CIRCUIT OF MISSOURI, ET AL. C. A. 8th Cir. Certiorari denied.

No. 12–9944. GRAY *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 366 N. C. 418, 735 S. E. 2d 178.

No. 12–9952. MERZBACHER *v.* SHEARIN ET AL. (two judgments). C. A. 4th Cir. Certiorari denied. Reported below: 706 F. 3d 356 (first judgment).

No. 12–9958. BARRETT *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 292 Ga. 160, 733 S. E. 2d 304.

No. 12–9964. SANDERS *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 311.

No. 12–9967. GELIN *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 170 Wash. App. 1031.

No. 12–9977. BUSTILLOS *v.* ARKANSAS. Ct. App. Ark. Certiorari denied. Reported below: 2012 Ark. App. 654, 425 S. W. 3d 44.

No. 12–9980. GAMMONS *v.* CITY AND COUNTY OF DENVER, COLORADO, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 785.

No. 12–9982. FIORE *v.* RICHARDS. Sup. Ct. R. I. Certiorari denied. Reported below: 57 A. 3d 254.

No. 12–9983. RAMROOP *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 12–9985. FAIRLEY *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 250 Ore. App. 570, 284 P. 3d 599.

No. 12–9986. HICKS *v.* STEPHENS, JUDGE, CIRCUIT COURT OF WEST VIRGINIA, MCDOWELL COUNTY. Sup. Ct. App. W. Va. Certiorari denied.

No. 12–9989. FRAHER *v.* PATRICK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–9990. GRAY *v.* GONZALEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–9991. GSSIME *v.* NASSAU COUNTY COURTHOUSE ET AL. C. A. 2d Cir. Certiorari denied.

No. 12–9992. RUSSELL *v.* GEDDES, TRUSTEE. C. A. 11th Cir. Certiorari denied.

No. 12–9993. CARPENTER *v.* SCHWARZENEGGER ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–9994. ETTLIN *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 12–10004. LEWIS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 111252–U.

No. 12–10005. JOHNSON *v.* VARGO, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 370.

No. 12–10010. LEERDAM *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 12–10013. XIN DAN LIN *v.* WARREN, ADMINISTRATOR, NEW JERSEY STATE PRISON. C. A. 3d Cir. Certiorari denied.

No. 12–10014. RIVERA *v.* VENDITTO. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1103, 979 N. E. 2d 239.

No. 12–10015. BALLE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 12–10017. JOHNSON *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10021. FULLER *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 104 So. 3d 1105.

No. 12–10023. GREENBERRY *v.* MEMPHIS CITY SCHOOLS. C. A. 6th Cir. Certiorari denied.

No. 12–10024. GRAVES *v.* VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 196.

No. 12–10025. GANT *v.* NORTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 91.

No. 12–10029. BLACKWELL *v.* FOULK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10030. BLACK *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 485 Fed. Appx. 335.

No. 12–10031. ANDREU *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 109 So. 3d 1163.

No. 12–10035. HARRINGTON *v.* MCKEE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10038. Vasquez-Cruz *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 692 F. 3d 1001.

No. 12–10042. Thornsberry *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 12–10046. Earnest *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 496 Fed. Appx. 902.

No. 12–10050. Branham *v.* Harvanek, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 485 Fed. Appx. 338.

No. 12–10052. Smith *v.* Tennessee Board of Probation and Parole et al. C. A. 6th Cir. Certiorari denied.

No. 12–10053. Stephens *v.* United States District Court for the Middle District of Florida. C. A. 11th Cir. Certiorari denied.

No. 12–10055. Johnson et vir *v.* HSBC Bank USA et al. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 106 So. 3d 932.

No. 12–10058. Rodriguez *v.* Gipson, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 12–10060. Shephard *v.* United States Court of Appeals for the District of Columbia. C. A. D. C. Cir. Certiorari denied.

No. 12–10061. Scurlock *v.* Illinois. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2012 IL App (3d) 100800–U.

No. 12–10065. Millsap *v.* Hobbs, Director, Arkansas Department of Correction. C. A. 8th Cir. Certiorari denied.

No. 12–10066. Jacobs *v.* Jacobs. Ct. App. Ga. Certiorari denied. Reported below: 313 Ga. App. XXII.

No. 12–10069. Grayton *v.* Lee, Superintendent, Green Haven Correctional Facility. C. A. 2d Cir. Certiorari denied. Reported below: 691 F. 3d 165.

No. 12–10072. McFadden *v.* Cohen, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 128.

No. 12–10074. ASHLEY *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 82 Mass. App. 748, 978 N. E. 2d 576.

No. 12–10075. ALVARADO *v.* LONG, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10077. LOUISIANA EX REL. PITTMAN *v.* CONERLY ET AL. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 2012–0468 (La. App. 4 Cir. 9/12/12), 100 So. 3d 339.

No. 12–10078. MURILLO *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–10081. PACE *v.* CHAPDELAINE, ACTING WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 724.

No. 12–10082. MORRIS *v.* MCALLESTER ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 702 F. 3d 187.

No. 12–10084. GREEN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10086. GONZALEZ *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10088. HALL *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 12–10090. HORTON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10092. BARZAR *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10094. BAXTER *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 473 Fed. Appx. 321.

No. 12–10098. ROBLES *v.* AMARR GARAGE DOORS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 741.

No. 12–10103. GREEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 206.

No. 12–10104. HUNT *v.* WILSON ET AL. C. A. 8th Cir. Certiorari denied.

No. 12–10115. DYER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 706 F. 3d 1134.

No. 12–10119. RODRIGUEZ *v.* BUSBY, WARDEN; and RODRIGUEZ *v.* LONG, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10120. TALL *v.* MV TRANSPORTATION. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 355.

No. 12–10125. WILKINS *v.* ALLEN. C. A. 5th Cir. Certiorari denied.

No. 12–10126. CRUZ-HERNANDEZ *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 12–10129. BROWN *v.* WOODRUFF ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–10132. BACKMAN *v.* GRIFFIN, SUPERINTENDENT, SULLIVAN CORRECTIONAL FACILITY. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 101 App. Div. 3d 1316, 956 N. Y. S. 2d 233.

No. 12–10140. TORRES *v.* DAVIS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 506 Fed. Appx. 98.

No. 12–10141. WILLIAMS *v.* STEELE, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 695 F. 3d 825.

No. 12–10146. NESSELRODE *v.* MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 369 Mont. 540, 310 P. 3d 1098.

No. 12–10148. PATRICK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 104 So. 3d 1046.

No. 12–10149. PAYTON *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 513 Fed. Appx. 963.

No. 12–10151. ANDERSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103288, 977 N. E. 2d 222.

No. 12–10152. ALVAREZ *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 12–10153. BEAN *v.* REILLY, WARDEN. C. A. 1st Cir. Certiorari denied.

No. 12–10155. SNELGROVE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 107 So. 3d 242.

No. 12–10156. OVANTE *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 231 Ariz. 180, 291 P. 3d 974.

No. 12–10159. MANNING *v.* HORNE, ATTORNEY GENERAL OF ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10160. LEON *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 107 So. 3d 419.

No. 12–10165. ROSENFELD *v.* HACKETT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 646.

No. 12–10171. YOUNG *v.* MCCABE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 316.

No. 12–10173. MORRIS *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied.

No. 12–10175. BOKENO *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2012-Ohio-4218.

No. 12–10178. ELFAND *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 1. Certiorari denied.

No. 12–10180. OLDS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 12–10183. KUEHNER *v.* PENNSYLVANIA BOARD OF PROBATION AND PAROLE ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–10185. DEAN *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2011 IL App (1st) 101379–U.

No. 12–10186. CASEY *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 100 So. 3d 687.

No. 12–10187. EDGLESTON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 12–10188. DEBLASIO *v.* STONE ET AL. Sup. Ct. App. W. Va. Certiorari denied.

No. 12–10189. SWAIN *v.* SEAMAN ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 773.

No. 12–10190. STEWART *v.* GIROUX, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MUNCY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–10191. ROSALES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10198. MARTIN *v.* RADFORD ET AL. C. A. 7th Cir. Certiorari denied.

No. 12–10201. BROWN *v.* THOMPSON. C. A. 6th Cir. Certiorari denied.

No. 12–10202. WEBB *v.* OKLAHOMA DEPARTMENT OF HUMAN SERVICES ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 727.

No. 12–10203. MOLINA *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 847.

No. 12–10204. PETERSON *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 356.

No. 12–10205. JAVIER MEDINA *v.* SCRIBNER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10214. DENNIS *v.* SCHWARZAUER. C. A. 11th Cir. Certiorari denied. Reported below: 496 Fed. Appx. 958.

No. 12–10215. EDWARDS *v.* MISSISSIPPI. Ct. App. Miss. Certiorari denied. Reported below: 856 So. 2d 587.

No. 12–10217. WILLIAMS *v.* TERRY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 479 Fed. Appx. 463.

No. 12–10219. SUTHERLAND *v.* OREGON. Sup. Ct. Ore. Certiorari denied.

No. 12–10220. ROBERTSON *v.* CHASE, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 951.

No. 12–10224. TIERNEY *v.* TORIKAWA ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10225. ROGOVICH *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied. Reported below: 694 F. 3d 1094.

No. 12–10230. EVANS *v.* BECK, MAGISTRATE JUDGE, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10232. SISTRUNK *v.* ELI LILLY & CO. C. A. 2d Cir. Certiorari denied. Reported below: 508 Fed. Appx. 22.

No. 12–10233. MATTHEWS *v.* JUNIOUS, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10235. BRERETON *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2013 WI 17, 345 Wis. 2d 563, 826 N. W. 2d 369.

No. 12–10236. ARIAS *v.* LAFLER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 440.

No. 12–10239. CHAVIRA *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 12–10243. REED *v.* JOB COUNCIL OF THE OZARKS ET AL. C. A. 8th Cir. Certiorari denied.

No. 12–10252. ROBINSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10253. OLICK *v.* NORTHAMPTON COUNTY TAX CLAIM BUREAU ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 504 Fed. Appx. 189.

No. 12–10255. MONTGOMERY *v.* LOUISIANA. Ct. App. La., 3d Cir. Certiorari denied. Reported below: 2010–01151 (La. App. 3 Cir. 4/6/11), 66 So. 3d 82.

No. 12–10258. KILMARTIN *v.* HURLEY, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 12–10262. MORMAN-JOHNSON *v.* HATHAWAY ET AL. Ct. App. Ga. Certiorari denied. Reported below: 312 Ga. App. 300, 718 S. E. 2d 132.

No. 12–10264. OQUENDO SALADINO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 473 Fed. Appx. 617.

No. 12–10265. CASTELLANOS RODRIGUEZ *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 12–10266. ROBINSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10268. LEWIS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 102617–U.

No. 12–10270. B. C. S. *v.* DARNELL, SUPERINTENDENT, INDIAN RIVER JUVENILE CORRECTIONAL FACILITY. C. A. 6th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 618.

No. 12–10274. LOWERY *v.* TOOLE, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 12–10275. MARTINEZ-JARAMILLO *v.* HOLDER, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 667.

No. 12–10276. JAIMES-CRUZ *v.* UNITED STATES;
No. 12–10340. CAVILLO-ROJAS, AKA ROJAS *v.* UNITED STATES; and
No. 12–10489. JAIMES-CRUZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 238.

No. 12–10278. REYNOLDS *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 114 So. 3d 61.

No. 12–10279. SPENCER *v.* SHARP ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 424.

No. 12–10281. KNOX *v.* DAVIS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 287.

No. 12–10282. PHILLIPS *v.* OHIO. C. A. 6th Cir. Certiorari denied.

No. 12–10283. DAVIS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 12–10285. O'CAMPO *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 102477–U.

No. 12–10287. JACKSON *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2012 IL App (4th) 120241–U.

No. 12–10288. OLDS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 12–10291. MOORE *v.* WALL ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–10294. HURT *v.* CONNECTICUT ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–10295. GADDY *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10297. FRANCIS *v.* KENTUCKY. Cir. Ct. Knott County, Ky. Certiorari denied.

No. 12–10298. L. G. *v.* DEPARTMENT OF PUBLIC WELFARE. Commw. Ct. Pa. Certiorari denied.

No. 12–10299. FLANDER *v.* TEXAS WORKFORCE COMMISSION ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 490 Fed. Appx. 631.

No. 12–10300. FRANCISCO *v.* YELICH, SUPERINTENDENT, BARE HILL CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10303. HANNA *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 694 F. 3d 596.

No. 12–10306. GILBERT *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 12–10307. GONZALES *v.* STAINER, ACTING WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 704.

No. 12–10314. Bracey *v.* Lamas, Superintendent, State Correctional Institution at Rockview, et al. C. A. 3d Cir. Certiorari denied.

No. 12–10316. Hayward *v.* Premo, Superintendent, Oregon State Penitentiary. Ct. App. Ore. Certiorari denied. Reported below: 248 Ore. App. 141, 273 P. 3d 926.

No. 12–10321. Gentry *v.* Sinclair, Superintendent, Washington State Penitentiary. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 3d 884.

No. 12–10322. Valdez *v.* Grounds, Acting Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10325. Saucedo *v.* Texas. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 12–10326. Shrader *v.* Beann et al. C. A. 10th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 650.

No. 12–10327. Brown *v.* Maine et al. C. A. 1st Cir. Certiorari denied.

No. 12–10328. Robinson *v.* Dunbar. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 102 So. 3d 747.

No. 12–10329. Staberg *v.* Nebraska. Ct. App. Neb. Certiorari denied. Reported below: 20 Neb. App. xiii.

No. 12–10330. Rodriguez *v.* Valenzuela, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10331. Carbajal et al. *v.* City and County of Denver, Colorado, et al. C. A. 10th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 715.

No. 12–10332. DeJesus *v.* Crews, Secretary, Florida Department of Corrections, et al. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 12–10334. Aubert *v.* Biter, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10336. Archuleta *v.* Washington. Ct. App. Wash. Certiorari denied. Reported below: 169 Wash. App. 1015.

No. 12–10338. ENGLAND *v.* PORET ET AL. C. A. 5th Cir. Certiorari denied.

No. 12–10339. CONNER *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 9th Cir. Certiorari denied.

No. 12–10344. WIDMER *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Warren County. Certiorari denied. Reported below: 2012-Ohio-4342.

No. 12–10347. WILLIAMS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 206 Md. App. 751.

No. 12–10349. PEALER *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 20 N. Y. 3d 447, 985 N. E. 2d 903.

No. 12–10350. MORALES *v.* PELICAN BAY STATE PRISON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 393.

No. 12–10351. COLEMAN *v.* HOLDER, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 12–10353. LATTIMORE *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 82 Mass. App. 1121, 978 N. E. 2d 106.

No. 12–10354. KAMINSKI *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari denied.

No. 12–10355. JASSO-RIOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 590.

No. 12–10356. SCHIED *v.* NELSON. C. A. 6th Cir. Certiorari denied.

No. 12–10357. CLARK *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10359. COMMINS *v.* HABBERSTAD BMW ET AL. C. A. 2d Cir. Certiorari denied.

No. 12–10361. LIESER *v.* SPENCER ET AL. C. A. 4th Cir. Certiorari denied.

No. 12–10362. LIZARRAGA *v.* LONG, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10364. Loftis *v.* Uribe, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 704 F. 3d 645.

No. 12–10365. Irvin *v.* United States District Court for the Middle District of Tennessee. C. A. 6th Cir. Certiorari denied.

No. 12–10366. Navarro *v.* Harrington, Warden. C. A. 7th Cir. Certiorari denied.

No. 12–10367. Paranteau *v.* Kerkegard, Warden, et al. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 685.

No. 12–10368. Montoya *v.* Jones, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 656.

No. 12–10370. Taylor *v.* Long, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10372. Brown *v.* Swarthout, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10378. Little *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 708 F. 3d 1286.

No. 12–10379. Spencer *v.* California et al. C. A. 9th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 682.

No. 12–10381. Orsi *v.* Al-Nahyan. C. A. 1st Cir. Certiorari denied.

No. 12–10384. Lester *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 259.

No. 12–10388. Reid, aka Abdurrahman *v.* Washtenaw County Circuit Court et al. C. A. 6th Cir. Certiorari denied.

No. 12–10390. Byars *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 12–10395. Espinoza *v.* Valenzuela, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10396. Kyei *v.* Oregon Department of Transportation et al. C. A. 9th Cir. Certiorari denied. Reported below: 497 Fed. Appx. 711.

No. 12–10397. WASHINGTON *v.* WALL, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS. C. A. 1st Cir. Certiorari denied.

No. 12–10398. JENNINGS *v.* CITY OF INDIANAPOLIS, INDIANA. C. A. 7th Cir. Certiorari denied.

No. 12–10399. LOVE *v.* RIVARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10402. ROSALES *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 12–10403. SMITH *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10405. MORELAND *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 699 F. 3d 908.

No. 12–10411. WHITE ET VIR *v.* DEUTSCHE BANK NATIONAL TRUST CO. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 144 So. 3d 556.

No. 12–10413. JOHNSON *v.* PUGH, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 12–10414. ORTIZ *v.* UNITED STATES; and
No. 12–10493. ROLON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 883.

No. 12–10416. EASON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 092927–U.

No. 12–10417. BELL *v.* FLORIDA PAROLE COMMISSION. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 107 So. 3d 408.

No. 12–10420. DAHL *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied. Reported below: 2013 ND 25, 826 N. W. 2d 922.

No. 12–10423. SCHMIDT *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 12–10424. ROLANDINI *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 12–10427. Reveles *v.* Tegels, Warden. C. A. 7th Cir. Certiorari denied.

No. 12–10428. Kim *v.* Sussal et al. Ct. Sp. App. Md. Certiorari denied. Reported below: 207 Md. App. 772 and 778.

No. 12–10429. Melgoza Ramirez *v.* Gage, Warden. C. A. 8th Cir. Certiorari denied.

No. 12–10430. Bucklew *v.* Steele, Warden. C. A. 8th Cir. Certiorari denied.

No. 12–10433. Pickett *v.* Williams et al. C. A. 9th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 699.

No. 12–10434. Power *v.* Chavez, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10436. Kelly *v.* Timmerman-Cooper, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10437. Krecic *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 109 So. 3d 781.

No. 12–10440. Garris *v.* Missouri. Sup. Ct. Mo. Certiorari denied. Reported below: 389 S. W. 3d 648.

No. 12–10441. Marcum et ux. *v.* Ayers et ux. Ct. App. Tenn. Certiorari denied. Reported below: 398 S. W. 3d 624.

No. 12–10442. Martin *v.* Kansas. Sup. Ct. Kan. Certiorari denied. Reported below: 294 Kan. 638, 279 P. 3d 704.

No. 12–10443. Johnson *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 953.

No. 12–10444. Homick *v.* California. Sup. Ct. Cal. Certiorari denied. Reported below: 55 Cal. 4th 816, 289 P. 3d 791.

No. 12–10445. Quevi *v.* Bickell, Superintendent, State Correctional Institution at Huntingdon, et al. C. A. 3d Cir. Certiorari denied.

No. 12–10446. Samuels *v.* Strange et al. C. A. 2d Cir. Certiorari denied.

No. 12–10447. Sturkey *v.* McCall, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 315.

No. 12–10449. HILL *v.* HUMPHREY, WARDEN. Super. Ct. Butts County, Ga. Certiorari denied.

No. 12–10454. MICHUDA *v.* MINNESOTA BOARD OF PUBLIC DEFENSE ET AL. Ct. App. Minn. Certiorari denied.

No. 12–10458. BARONI *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–10463. CORTEZ *v.* PATRICK, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10464. BROWN *v.* WOLFE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 482 Fed. Appx. 304.

No. 12–10465. BROWN *v.* MCQUIGGIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10468. BANKS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 966.

No. 12–10470. SEALED APPELLANT *v.* SEALED APPELLEE ET AL. C. A. 5th Cir. Certiorari denied.

No. 12–10474. WINEGARNER *v.* CINEMARK HOLDINGS, INC., ET AL. C. A. 5th Cir. Certiorari denied.

No. 12–10475. WALKER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 657 F. 3d 160.

No. 12–10476. HARRIS *v.* KERNAN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 550.

No. 12–10477. FARIAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 682.

No. 12–10478. HOPEWELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 609.

No. 12–10482. SCOTT *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied. Reported below: 686 F. 3d 1130.

No. 12–10483. BURCH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 811.

No. 12–10484. Brown *v.* Patrick et al. C. A. 11th Cir. Certiorari denied.

No. 12–10485. Baker *v.* Holt et al. C. A. 10th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 770.

No. 12–10486. Burghardt *v.* California. Sup. Ct. Cal. Certiorari denied.

No. 12–10487. Irish *v.* Overstreet et al. C. A. 9th Cir. Certiorari denied.

No. 12–10488. Lavender *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 719.

No. 12–10490. Johnson *v.* California. Ct. App. Cal., 2d App. Dist., Div. 5. Certiorari denied.

No. 12–10491. Johnson *v.* Crews, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 12–10494. Rodriguez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 445.

No. 12–10495. Radobenko *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 534.

No. 12–10496. Sanders *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 12–10497. Muhammad *v.* Ryan, Director, Arizona Department of Corrections, et al. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 613.

No. 12–10498. Pollock *v.* Oregon. Ct. App. Ore. Certiorari denied. Reported below: 251 Ore. App. 755, 284 P. 3d 1222.

No. 12–10499. Sneed *v.* Florida Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 496 Fed. Appx. 20.

No. 12–10500. Burns *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 12–10501. Bromwell et al. *v.* Lombardi, Director, Missouri Department of Corrections, et al. C. A. 8th Cir. Certiorari denied.

No. 12–10502. Bowen *v.* Colvin, Acting Commissioner of Social Security. C. A. 9th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 353.

No. 12–10503. Bockiaro *v.* Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 12–10504. Bloomfield *v.* Hargett, Warden, et al. Dist. Ct. Wyo., Campbell County. Certiorari denied.

No. 12–10505. Bayron *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 12–10506. Lucero Cano *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 12–10507. Church *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 760.

No. 12–10508. Ramon Ochoa *v.* Rubin. Super. Ct. Pa. Certiorari denied.

No. 12–10509. Rubio *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10511. Booker *v.* Harrington, Warden, et al. Sup. Ct. Ill. Certiorari denied.

No. 12–10512. Dahl *v.* King, Superintendent, South Mississippi Correctional Institution. C. A. 5th Cir. Certiorari denied.

No. 12–10513. Brown *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 461.

No. 12–10514. Copeland *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 707 F. 3d 522.

No. 12–10515. Rodriguez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 313.

No. 12–10516. Willis *v.* Kerestes, Superintendent, State Correctional Institution at Mahanoy, et al. C. A. 3d Cir. Certiorari denied.

No. 12–10517. Keaton *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 824.

No. 12–10518. MACK *v.* FALK, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 756.

No. 12–10519. MOLINA-URIBE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 304.

No. 12–10520. WALLIN *v.* SINCLAIR, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied.

No. 12–10521. TAYLOR *v.* OZMINT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 269.

No. 12–10522. TOMLIN *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 139 So. 3d 901.

No. 12–10523. VISIKIDES *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 298.

No. 12–10524. WALLACE *v.* STROMBERG. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 621.

No. 12–10525. SADIO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 520 Fed. Appx. 31.

No. 12–10526. RODRIGUEZ *v.* SMITH, SUPERINTENDENT, SHAWANGUNK CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10527. TISDALE *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10530. THORNTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 12–10532. CISNEROS *v.* FORD, SUPERINTENDENT, WASHINGTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10534. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 800.

No. 12–10535. KIRKWOOD *v.* MOHR, DIRECTOR, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, ET AL. C. A. 6th Cir. Certiorari denied.

No. 12–10536. KRONE *v.* GONZALES ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10538. HUDSON *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2012 WI App 118, 344 Wis. 2d 518, 822 N. W. 2d 736.

No. 12–10539. GUTIERREZ *v.* BRADT, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10540. HUMES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10541. HINES *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10542. FEARENCE *v.* CASH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10543. FIGUEROA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 12–10544. GIRALDO *v.* BRADT, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10545. GUICE *v.* WINKLER ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 650.

No. 12–10546. HOUCK *v.* BALL ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 704.

No. 12–10547. ROWE *v.* LEMMON ET AL. Ct. App. Ind. Certiorari denied. Reported below: 976 N. E. 2d 129.

No. 12–10548. SEIBERT *v.* MOHEAD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 268.

No. 12–10549. HINES *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 38 A. 3d 307.

No. 12–10550. GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 488 Fed. Appx. 804.

No. 12–10551. FRANKLIN *v.* COUNTY OF KALAMAZOO, MICHIGAN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 12–10552. FLEMING *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 168 Wash. App. 1028.

No. 12–10553. Gray *v.* Carlin, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 12–10554. Hessmer *v.* Colson, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10555. Hessmer *v.* Bad Government et al. (two judgments). C. A. 6th Cir. Certiorari denied.

No. 12–10556. Flores *v.* Texas (two judgments). Ct. Crim. App. Tex. Certiorari denied.

No. 12–10557. Heidinger *v.* Cash, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10558. Perez-Hernandez *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 490 Fed. Appx. 275.

No. 12–10559. Seely *v.* Jones, Director, Oklahoma Department of Corrections. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 806.

No. 12–10560. Ruiz *v.* Thomas, Warden. C. A. 3d Cir. Certiorari denied. Reported below: 510 Fed. Appx. 105.

No. 12–10561. Tanner, aka Brice *v.* Louisiana. Ct. App. La., 5th Cir. Certiorari denied. Reported below: 11–62 (La. App. 5 Cir. 6/28/12), 109 So. 3d 390.

No. 12–10562. Tirado *v.* Walsh, Superintendent, State Correctional Institution at Dallas, et al. C. A. 3d Cir. Certiorari denied.

No. 12–10563. Smith *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied. Reported below: 708 F. 3d 628.

No. 12–10564. Parson, aka Perrin *v.* Texas. Ct. App. Tex., 11th Dist. Certiorari denied. Reported below: 392 S. W. 3d 809.

No. 12–10565. Nunez *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 12–10566. Robinson *v.* Kings County District Attorney's Office et al. C. A. 2d Cir. Certiorari denied.

No. 12–10567. Savior *v.* Bickell, Superintendent, State Correctional Institution at Dallas, et al. C. A. 3d Cir. Certiorari denied.

No. 12–10568. Reynosa-Aldaco *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 12–10569. Reynosa-Aldaco *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 12–10570. Jennings *v.* Baker, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 12–10572. Michener *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 574.

No. 12–10573. Neely *v.* Timmerman-Cooper, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10574. McNary *v.* Lemke, Warden. C. A. 7th Cir. Certiorari denied. Reported below: 708 F. 3d 905.

No. 12–10575. Smith et ux. *v.* Regions Bank et al. C. A. 11th Cir. Certiorari denied.

No. 12–10576. Daram *v.* Ptak. C. A. 8th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 635.

No. 12–10577. Rebollo *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 544.

No. 12–10580. Kalluvilayil *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10581. Roebuck *v.* Dothan Security, Inc., et al. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 275.

No. 12–10582. Adkins *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 259.

No. 12–10583. Banks *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 922.

No. 12–10585. Adeleke *v.* Dallas Area Rapid Transit. C. A. 5th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 901.

No. 12–10586. Mitchell *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 38 A. 3d 307.

No. 12–10587. SHANTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 265.

No. 12–10588. CARTER *v.* MIDWAY SLOTS AND SIMULCAST ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 511 Fed. Appx. 125.

No. 12–10589. DUNSMORE *v.* SAN DIEGO COUNTY SHERIFF'S DEPARTMENT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 384.

No. 12–10590. CONWAY *v.* INTERNAL REVENUE SERVICE ET AL. C. A. 2d Cir. Certiorari denied.

No. 12–10592. HAWKINS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 746.

No. 12–10593. FRAZIER *v.* SABINE RIVER AUTHORITY, STATE OF LOUISIANA. C. A. 5th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 370.

No. 12–10594. HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 591.

No. 12–10595. MCNEELY *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 12–10596. POWELL *v.* TRAVELERS INDEMNITY CO. C. A. 7th Cir. Certiorari denied.

No. 12–10597. PERKINS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 849.

No. 12–10598. MATTIX *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 694 F. 3d 1082.

No. 12–10599. KYONG HO KIM *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 12–10600. JURADO-RINCON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 305.

No. 12–10601. COLEMAN *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10602. CHERRY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 114 So. 3d 932.

No. 12–10603. SANDOVAL-CASTILLO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 84.

No. 12–10604. ADAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 483 Fed. Appx. 299.

No. 12–10605. ADIONSER *v.* DEPARTMENT OF JUSTICE ET AL. C. A. D. C. Cir. Certiorari denied.

No. 12–10606. BENOIT *v.* FAYRAM, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 12–10607. BORDERS *v.* KNIPP, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10608. MCCLAIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 319 Fed. Appx. 788.

No. 12–10609. PATTON *v.* MILLS. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 629.

No. 12–10610. MYRICK *v.* MAYO, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 12–10611. WALLACE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 263.

No. 12–10612. TOWNSEND *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 12–10615. OLIVIER *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10616. NHUONG VAN NGUYEN *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–10617. RENDER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 823.

No. 12–10618. LAKE *v.* CAPITAL ONE BANK. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 111.

No. 12–10619. BURGESS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 888.

No. 12–10620. SUBER *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–10621. LALL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 12–10622. NDON *v.* UNIVERSITY OF WISCONSIN-MILWAUKEE. C. A. 7th Cir. Certiorari denied.

No. 12–10623. PHELAN *v.* CAMBELL ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 507 Fed. Appx. 14.

No. 12–10624. CARNEAL *v.* CREWS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 347.

No. 12–10625. WOLCOTT *v.* DIAZ, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 468 Fed. Appx. 756.

No. 12–10626. VILLAR *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 12–10627. TORRES-RIVERA *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 850.

No. 12–10628. CRISTALLO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 12–10629. CASSANO *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2012-Ohio-4047.

No. 12–10632. VERBANAC *v.* PUGH, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 12–10634. YOUNGBLOOD *v.* CHICO PAROLE OUTPATIENT CLINIC ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10635. CAPERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 708 F. 3d 1286.

No. 12–10636. HAYES *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 12–10637. WOERNER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 709 F. 3d 527.

No. 12–10640. WASHINGTON *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 12–10641. REED *v.* MILLER-STOUT, SUPERINTENDENT, AIRWAY HEIGHTS CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 12–10642. WHYLIE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 12–10643. LOPEZ-VALLE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 616.

No. 12–10644. PREACHER *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10645. BROADUS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 352.

No. 12–10646. BROWN *v.* MICHIGAN. C. A. 6th Cir. Certiorari denied.

No. 12–10647. BUENO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 703 F. 3d 1053.

No. 12–10648. BELL *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 109 So. 3d 1157.

No. 12–10649. HARBOR *v.* URIBE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10650. GUILLEN *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10651. HABERLEIN *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 296 Kan. 195, 290 P. 3d 640.

No. 12–10652. JEROME *v.* BARCELO CRESTLINE, INC. C. A. 11th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 861.

No. 12–10653. NAVA-DURAN *v.* UNITED STATES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 357.

No. 12–10654. MONIZ *v.* COX. C. A. 6th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 495.

No. 12–10655. MCKINNON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 72.

No. 12–10657. HALE *v.* VACAVILLE HOUSING AUTHORITY. C. A. 9th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 839.

No. 12–10658. TEAGARDEN *v.* JOHNSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10659. JUSTICE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 12–10660. WOODRUFF *v.* NATIONAL RAILROAD PASSENGER CORPORATION, AKA AMTRAK. C. A. 2d Cir. Certiorari denied.

No. 12–10661. LARYEA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–10662. PARKS *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10663. PROCH *v.* CRESTVIEW POLICE OFFICER. C. A. 11th Cir. Certiorari denied.

No. 12–10664. MOON *v.* VASQUEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10665. MORRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 285.

No. 12–10666. OLMOS *v.* ARIZONA. Super. Ct. Ariz., County of Maricopa. Certiorari denied.

No. 12–10667. MUYET *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 12–10668. MILLER *v.* HOOKS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 12–10669. BOYD *v.* HARRIS, ATTORNEY GENERAL OF CALIFORNIA. C. A. 9th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 661.

No. 12–10670. BRIZAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 709 F. 3d 864.

No. 12–10672. BENNER *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 12–10673. MEDINA *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10674. CUMMER *v.* HOLLAND, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10675. KIDD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10676. LESTER-OCHOA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 342.

No. 12–10677. JOHNSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 12–10679. SHABAZZ, AKA HINES *v.* CITY OF HOUSTON, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 263.

No. 12–10680. SMITH *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 12–10681. COOPER *v.* MISSOURI LOTTERY. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 395 S. W. 3d 599.

No. 12–10682. PAYNE *v.* CAYHILL ET AL. C. A. 7th Cir. Certiorari denied.

No. 12–10683. SMORYNSKI *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10684. DAVIS *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 12–10686. REEVES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 88.

No. 12–10687. CHAPLIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 248.

No. 12–10688. WATKINS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 12–10689. TETERS *v.* TEXAS ET AL. C. A. 5th Cir. Certiorari denied.

No. 12–10690. ALEXANDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 368.

No. 12–10691. BERKMAN *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 976 N. E. 2d 68.

No. 12–10692. CALIXTO-CALDERON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 343.

No. 12–10693. ZACK *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 704 F. 3d 917.

No. 12–10694. ROBINSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10697. SPIVEY *v.* RHODE ISLAND ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–10698. SULLIVAN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–10699. LESANE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 283.

No. 12–10700. PIPER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 205.

No. 12–10701. MAY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 423.

No. 12–10702. NEWSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 58 A. 3d 1021.

No. 12–10703. ZOBEL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 696 F. 3d 558.

No. 12–10704. NEDELCU ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 980.

No. 12–10705. JOST *v.* HARTLEY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10706. LOUIS *v.* SULLIVAN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10707. MARSHALL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 276.

No. 12–10708. STAFFORD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 322.

No. 12–10709. SOTO-LOPEZ *v.* UNITED STATES (Reported below: 513 Fed. Appx. 746); AVALOS-ESTRADA *v.* UNITED STATES (520 Fed. Appx. 652); and HERNANDEZ-CASTILLO *v.* UNITED STATES (514 Fed. Appx. 742). C. A. 10th Cir. Certiorari denied.

No. 12–10710. RUFINO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 12–10711. SKEFFERY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 694.

No. 12–10712. MEDINA *v.* RODEN, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION AT NORFOLK. C. A. 1st Cir. Certiorari denied.

No. 12–10713. DE MEDEIROS *v.* SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY. C. A. 9th Cir. Certiorari denied.

No. 12–10715. KILGORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–10716. KADIR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 718 F. 3d 115.

No. 12–10717. JONES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 600.

No. 12–10718. MCLEOD *v.* JARVIS, WARDEN. Sup. Ct. Va. Certiorari denied.

No. 12–10719. PRINCE *v.* THOMAS, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 170.

No. 12–10721. BROWN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10722. ANDRADE-RIVERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 516.

No. 12–10723. BARROCA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 12–10724. BELCHER *v.* HURLEY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 12–10725. Brown *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 12–10726. Abdul-Malik *v.* Miller, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10727. Winters *v.* Westbrooks, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10728. Wiley *v.* Maryland. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 768.

No. 12–10729. Warren *v.* Russell, Warden. C. A. 8th Cir. Certiorari denied.

No. 12–10732. Nelson *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 378.

No. 12–10733. Taylor *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 377.

No. 12–10734. Turner *v.* Almager, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10735. Reedy *v.* Ohio. Ct. App. Ohio, 5th App. Dist., Perry County. Certiorari denied. Reported below: 2012-Ohio-4899.

No. 12–10736. Carbajal *v.* Colorado. Ct. App. Colo. Certiorari denied.

No. 12–10738. Barbee *v.* Keller, Secretary, North Carolina Department of Correction. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 255.

No. 12–10739. Gover *v.* Perry, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 698 F. 3d 295.

No. 12–10740. Grenning *v.* Washington. Ct. App. Wash. Certiorari denied. Reported below: 169 Wash. App. 1036.

No. 12–10742. Gomez *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 12–10743. Greineder *v.* Massachusetts. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 464 Mass. 580, 984 N. E. 2d 804.

No. 12–10744. LEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 916.

No. 12–10745. DICKERSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 683.

No. 12–10746. HERNANDEZ-MUNGUIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 627.

No. 12–10747. TELFAIR *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 507 Fed. Appx. 164.

No. 12–10749. THEARD *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10750. BASEMORE *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 12–10751. BURK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 488 Fed. Appx. 332.

No. 12–10752. AKENS *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI. C. A. 8th Cir. Certiorari denied.

No. 12–10754. BONESTROO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 702 F. 3d 1066.

No. 12–10755. JIANG YAN HUA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 513 Fed. Appx. 70.

No. 12–10757. THORPE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 358.

No. 12–10758. WILLIS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 53 A. 3d 928.

No. 12–10759. TRIGG *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 418.

No. 12–10760. WHITEFORD *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 792.

No. 12–10761. YUAN *v.* KOMIYANA. Sup. Ct. Cal. Certiorari denied.

No. 12–10762. CUNNINGHAM *v.* CHAPPELL, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 704 F. 3d 1143.

No. 12–10763. HISTON *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 634.

No. 12–10764. KIZER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 415.

No. 12–10765. ASAKEVICH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10766. HUNTER *v.* HANEY ET AL. Sup. Ct. Va. Certiorari denied.

No. 12–10767. GASSEW *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 764.

No. 12–10768. HOLNESS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 706 F. 3d 579.

No. 12–10769. GATEWOOD *v.* DEPARTMENT OF VETERANS AFFAIRS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 755.

No. 12–10770. REID *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 12–10771. SEXTON-WALKER *v.* GREAT EXPRESSIONS DENTAL CENTERS, P. C. Ct. App. Mich. Certiorari denied.

No. 12–10772. RAFAY *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 168 Wash. App. 734, 285 P. 3d 83.

No. 12–10773. SINGH *v.* LOPEZ, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10774. DEANE *v.* MARSHALLS, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 237.

No. 12–10776. BOYD *v.* BRUNSMAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10777. MORALES-RAMIREZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 784.

No. 12–10778. PRICE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 354.

No. 12–10779. MCKINNEY *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 12–10780. D'AMICO *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 96 So. 3d 905.

No. 12–10781. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 935.

No. 12–10782. MALONE *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: 2013 OK CR 1, 293 P. 3d 198.

No. 12–10783. INGRAM *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 475.

No. 12–10784. JOHNSON *v.* WILKENSON, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 726 F. 3d 1134.

No. 12–10785. COLON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 12–10786. MEDRANO-OCHOA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 390.

No. 12–10787. WILCHER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 919.

No. 12–10788. THOMAS *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 618 Pa. 70, 54 A. 3d 332.

No. 12–10789. YONG MING SONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 531.

No. 12–10790. SUBER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 920.

No. 12–10791. SIMPSON *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 12–10793. STEVENSON *v.* YOUNG. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 393.

No. 12–10795. Norman *v.* Timmerman-Cooper, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10796. DiMonda *v.* Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 12–10797. Madura et ux. *v.* United States District Court for the Middle District of Florida. C. A. 11th Cir. Certiorari denied.

No. 12–10798. Lott *v.* Trammell, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 705 F. 3d 1167.

No. 12–10799. Keen *v.* Tennessee. Sup. Ct. Tenn. Certiorari denied. Reported below: 398 S. W. 3d 594.

No. 12–10800. Curry *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 12–10801. DiPietro *v.* United States. C. A. 2d Cir. Certiorari denied.

No. 12–10802. Slewion *v.* Weinstein et al. C. A. 3d Cir. Certiorari denied.

No. 12–10803. Vaughn *v.* Robb et al. C. A. 6th Cir. Certiorari denied.

No. 12–10804. Wellons *v.* Humphrey, Warden. C. A. 11th Cir. Certiorari denied. Reported below: 695 F. 3d 1202.

No. 12–10805. Thornton *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 101.

No. 12–10806. Perez *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 12–10807. McClure *v.* Rapelje, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10808. Bolanos *v.* Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 144 So. 3d 548.

No. 12–10809. Busanet *v.* Pennsylvania. Sup. Ct. Pa. Certiorari denied. Reported below: 618 Pa. 1, 54 A. 3d 35.

No. 12–10810. Aponte *v.* Massachusetts. App. Ct. Mass. Certiorari denied. Reported below: 82 Mass. App. 1121, 978 N. E. 2d 106.

No. 12–10811. BOYSTON *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 231 Ariz. 539, 298 P. 3d 887.

No. 12–10813. VILLAFUERTE *v.* COLORADO. Sup. Ct. Colo. Certiorari denied.

No. 12–10814. TIJERINA *v.* PATTERSON ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 807.

No. 12–10815. SHEFFIELD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 375.

No. 12–10816. SCOTT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 303.

No. 12–10817. RIDGLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 654.

No. 12–10818. PARKER *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 231 Ariz. 391, 296 P. 3d 54.

No. 12–10819. PENG XIANG LI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 713.

No. 12–10820. LESURE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 296.

No. 12–10822. YATES *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 134 Ohio St. 3d 1506, 2013-Ohio-1123, 984 N. E. 2d 1101.

No. 12–10823. VALME *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–10824. WARREN *v.* SPEARMAN, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10825. PUGH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 281.

No. 12–10826. GERTH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 285.

No. 12–10827. FUSSELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–10828. HIPPOLYTE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 712 F. 3d 535.

No. 12–10829. VEGA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 413.

No. 12–10830. WINEBARGER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 516 Fed. Appx. 165.

No. 12–10831. PETITE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 703 F. 3d 1290.

No. 12–10832. REED *v.* SUPERIOR COURT OF CALIFORNIA, SACRAMENTO COUNTY, ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 12–10833. SMITH *v.* BECHTOLD, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 763.

No. 12–10834. SMITH *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 12–10835. TUCKER *v.* MURPHY, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 808.

No. 12–10836. WHALEN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 1, 294 P. 3d 915.

No. 12–10837. JOHNSON ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 606.

No. 12–10838. NEAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 302.

No. 12–10839. MCCAIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 283.

No. 12–10840. CHANTHARATH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 705 F. 3d 295.

No. 12–10841. DEAN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 745.

No. 12–10842. RODRIGUEZ *v.* COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, ET AL. Sup. Ct. Cal. Certiorari denied.

No. 12–10845. MARTIN *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10846. KRIVACSKA *v.* LANIGAN, COMMISSIONER, NEW JERSEY DEPARTMENT OF CORRECTIONS. C. A. 3d Cir. Certiorari denied.

No. 12–10847. BATTS *v.* OATES, CORRECTIONAL ADMINISTRATOR, PENDER CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 318.

No. 12–10848. BOAN *v.* MCCALL, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 289.

No. 12–10849. ARDON *v.* COMMITTEE FOR PUBLIC COUNSEL SERVICES. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 464 Mass. 1001, 979 N. E. 2d 1093.

No. 12–10850. BARILLAS *v.* DIAZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10851. AUSTIN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 53 A. 3d 1104.

No. 12–10852. BROCK *v.* BRAZELTON, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10853. COBBINS *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2012 IL App (3d) 100855–UB.

No. 12–10854. QUIRINO RIOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 12–10856. CARACAPPA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 12–10857. MAYARD *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 12–10858. SINGLETON *v.* RIVERA, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 727.

No. 12–10859. BEALER *v.* GODINEZ ET AL. C. A. 7th Cir. Certiorari denied.

No. 12–10860. BARAJAS *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 12–10861. BELT *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 391.

No. 12–10863. ANGUIANO-MAGANA *v.* TAYLOR, ACTING SUPERINTENDENT, TWO RIVERS CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 12–10864. BURFEINDT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 12–10865. DEMA *v.* CITY OF MESA, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 650.

No. 12–10866. DOUGLAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10868. COTTRELL *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 12–10870. COSBY *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 10th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 819.

No. 12–10872. MILES *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 12–10873. PARKER *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 317 Ga. App. 93, 730 S. E. 2d 717.

No. 12–10874. MORELAND *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10876. KINSEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 292.

No. 12–10877. LORADITCH *v.* JILLSON. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1104, 980 N. E. 2d 470.

No. 12–10878. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 533.

No. 12–10879. VAN LILLY *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 12–10881. GONZALEZ *v.* CADEN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 672.

No. 12–10885. GRABINSKI *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10886. HOLMES *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied. Reported below: 212 Cal. App. 4th 431, 150 Cal. Rptr. 3d 914.

No. 12–10887. GILKESON *v.* LEE, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10888. ROLLINS *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 12–10889. ALFREDO ZEPEDA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 652.

No. 12–10891. POOLER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 702 F. 3d 1252.

No. 12–10892. VAN ALSTYNE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 622.

No. 12–10893. BASS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 19.

No. 12–10894. DOWLEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 559.

No. 12–10895. CLARK *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 12–10896. MONTIEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 502.

No. 12–10897. JOHNSON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 120 So. 3d 1130.

No. 12–10898. LINK *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 12–10899. Morrison *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 512 Fed. Appx. 247.

No. 12–10900. Daniels *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 516 Fed. Appx. 56.

No. 12–10901. Clay *v.* United States; and
No. 12–11005. Cobb *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 755.

No. 12–10902. Eltayib *v.* Cornell Cos., Inc., et al. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 414.

No. 12–10904. Heyward *v.* Bodison, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 474 Fed. Appx. 156.

No. 12–10905. Forte *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 12–10906. Herrerra Hernandez *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 12–10907. Fernandez *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 12–10908. Holland *v.* Warren, Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10909. Fabian *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 12–10910. Gadsden *v.* Florida. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 90 So. 3d 285.

No. 12–10912. Harris *v.* United States. Ct. App. D. C. Certiorari denied. Reported below: 55 A. 3d 403.

No. 12–10913. Luh *v.* Farnsworth et al. C. A. 8th Cir. Certiorari denied.

No. 12–10914. Leal *v.* Ohio Secretary of State. Ct. App. Ohio, 10th App. Dist., Franklin County. Certiorari denied.

No. 12–10916. Cost *v.* Spearman, Warden. C. A. 9th Cir. Certiorari denied.

No. 12–10917. DIXON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 803.

No. 12–10918. EARLS *v.* MEISNER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 12–10920. LOYAL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 681.

No. 12–10921. IN RE GRAND JURY PROCEEDINGS. C. A. 1st Cir. Certiorari denied.

No. 12–10922. SANCHEZ *v.* YATES, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 520.

No. 12–10923. CLARK *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 12–10924. PEARSON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 393, 297 P. 3d 793.

No. 12–10925. MELENDEZ-HERNANDEZ *v.* UNITED STATES (Reported below: 517 Fed. Appx. 279); HERNANDEZ ALARCON, AKA HERNANDEZ, AKA HERNANDEZ ALCON *v.* UNITED STATES (518 Fed. Appx. 268); CAMARILLO LOPEZ, AKA LOPEZ CAMARILLO *v.* UNITED STATES (518 Fed. Appx. 289); RUEDA-FLORES *v.* UNITED STATES (545 Fed. Appx. 278); MORONES-VARGAS, AKA GONZALEZ-ZUNIGA *v.* UNITED STATES (519 Fed. Appx. 244); PENA-ROJAS *v.* UNITED STATES (546 Fed. Appx. 380); RESENDEZ-VILLAVUEVA, AKA CARLOS RESENDEZ, AKA RESENDEZ-VILLANUEVA, AKA RESENDEZ, AKA RESENDEZ VILLAVUEVA *v.* UNITED STATES (519 Fed. Appx. 297); OVALLE-CASTILLO *v.* UNITED STATES (544 Fed. Appx. 379); CARRILLO-MARTINEZ *v.* UNITED STATES (519 Fed. Appx. 311); ALEJANDRO ALCARAZ *v.* UNITED STATES (544 Fed. Appx. 429); and GARCIA-GUILLEN *v.* UNITED STATES (520 Fed. Appx. 243). C. A. 5th Cir. Certiorari denied.

No. 12–10926. CYRUS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 365.

No. 12–10928. WEN LIU *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 12–10929. CONWAY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 12–10930. Fusilier *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 12–10931. Harris *v.* Pfister, Warden. C. A. 7th Cir. Certiorari denied.

No. 12–10933. Gartman *v.* Pfister, Warden. C. A. 7th Cir. Certiorari denied.

No. 12–10934. Angel Gonzalez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 300.

No. 12–10935. Fenner *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 12–10936. Maggio *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 696.

No. 12–10937. Ebron *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 358.

No. 12–10938. Castro-Lopez *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 641.

No. 12–10939. Nash *v.* Cuyahoga County Jail Warden. C. A. 6th Cir. Certiorari denied.

No. 12–10940. Merritt *v.* Crews, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 12–10942. Morris *v.* Ulibarri, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 777.

No. 12–10943. Arturo Enamorado *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 654.

No. 12–10944. Dale *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 421.

No. 12–10945. Denham *v.* Mississippi. Sup. Ct. Miss. Certiorari denied.

No. 12–10946. Vanmeter *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 226.

No. 12–10947. Thompson *v.* California. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 12–10948. TAYLOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 205.

No. 12–10949. TOWNSEND *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 904.

No. 12–10950. GOMEZ-DIAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 272.

No. 12–10951. GODFREY *v.* FOX, ATTORNEY GENERAL OF MONTANA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 613.

No. 12–10952. HALL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 107 So. 3d 262.

No. 12–10955. MENDEZ-ROLDAN ET AL. *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 714 F. 3d 1.

No. 12–10956. BARRETO *v.* KNIPP, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 664.

No. 12–10957. SPARKS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 711 F. 3d 58.

No. 12–10959. SOLOMON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 895.

No. 12–10960. LAN THI TRAN NGUYEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 678.

No. 12–10961. DUARTE PLANCARTE, AKA DUARTE-PLANCARTE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 699.

No. 12–10962. DALEY *v.* HARRINGTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10964. BURT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10966. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 830.

No. 12–10967. GREY *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10968. HINNANT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 217.

No. 12–10969. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 270.

No. 12–10970. GROBMAN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 12–10971. HAYES *v.* ATKINSON, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 12–10972. FELAN-CISNEROS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 12–10973. GOODENOW *v.* BRADFORD COUNTY COURT OF COMMON PLEAS. Sup. Ct. Pa. Certiorari denied.

No. 12–10975. GRAHAM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 504 Fed. Appx. 63.

No. 12–10976. FERNANDEZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 12–10977. FRANKS *v.* ARIZONA. Ct. App. Ariz. Certiorari denied.

No. 12–10978. HUGHES *v.* LEVENHAGEN, SUPERINTENDENT, WESTVILLE CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 12–10979. HASSAN *v.* ARIZONA. Super. Ct. Ariz., County of Maricopa. Certiorari denied.

No. 12–10980. FONSECA *v.* SMALL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 12–10982. GODWIN *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 393.

No. 12–10983. HARRISON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 12–10984. SKODA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 705 F. 3d 834.

No. 12–10985. SNOW *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 12–10986. GEORGE *v.* ANSPACH ET AL. C. A. 6th Cir. Certiorari denied.

No. 12–10987. GARCIA *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 12–10988. HARMON *v.* TURNBULL. C. A. 9th Cir. Certiorari denied.

No. 12–10990. HUSNIK *v.* ENGLES ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 495 Fed. Appx. 719.

No. 12–10991. GREENE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 368.

No. 12–10993. FAMILIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 12–10994. GROVE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 855.

No. 12–10995. HAWKINS *v.* COUNTY OF LOS ANGELES, CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 12–10996. WARD *v.* DANIELS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 12–10997. WATKINS *v.* MACLAREN, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 488.

No. 12–10999. ADAMES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 509 Fed. Appx. 176.

No. 12–11000. MOSBRUCKER *v.* CALIFORNIA. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 12–11002. FLORES-OLAGUE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 717 F. 3d 526.

No. 13–1. ALLEN *v.* RADIO ONE OF TEXAS II, LLC. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 295.

No. 13–2. LANDRY *v.* G. C. CONSTRUCTORS. C. A. 5th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 432.

No. 13–3. SODOMSKY *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 47 A. 3d 1257.

No. 13–4. LANGSTON *v.* WILSON MCSHANE CORP., AS ADMINISTRATOR FOR THE TWIN CITIES CARPENTERS AND JOINERS PENSION FUND, ET AL. Sup. Ct. Minn. Certiorari denied. Reported below: 828 N. W. 2d 109.

No. 13–8. TRANSPORTAZUMAH LLC *v.* CITY OF NEW YORK, NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 101 App. Div. 3d 465, 955 N. Y. S. 2d 333.

No. 13–9. KINGSLEY ET AL. *v.* BRUNDIGE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 492.

No. 13–11. CANEDY *v.* CANEDY. Ct. App. Ky. Certiorari denied.

No. 13–12. SLEDGE *v.* STATE FARM INSURANCE. C. A. 7th Cir. Certiorari denied.

No. 13–13. DUGAN *v.* MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 369 Mont. 39, 303 P. 3d 755.

No. 13–14. STEGMEIER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 701 F. 3d 574.

No. 13–15. SANCHEZ *v.* TEXAS. Ct. App. Tex., 8th Dist. Certiorari denied. Reported below: 393 S. W. 3d 798.

No. 13–16. CAMPBELL *v.* HANOVER INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 709 F. 3d 388.

No. 13–17. KENT *v.* VICKSBURG HEALTHCARE, L. L. C., DBA RIVER REGION MEDICAL CENTER, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 229.

No. 13–18. JANDA *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 174 Wash. App. 229, 298 P. 3d 751.

No. 13–19. OHIO CHEMICAL SERVICES ET AL. *v.* FALCONBRIDGE, LTD., ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 703 F. 3d 1004.

No. 13–20. OPSITNICK ET UX. *v.* JOHNSON. Ct. App. N. C. Certiorari denied. Reported below: 223 N. C. App. 101, 732 S. E. 2d 394.

No. 13–21. SHINER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–22. HAMBERG *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 109 So. 3d 795.

No. 13–24. DANIEL *v.* UNIVERSAL ENSCO, INC. C. A. 5th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 434.

No. 13–26. DONNA L. *v.* NEW MEXICO EX REL. CHILDREN, YOUTH AND FAMILIES DEPARTMENT. Ct. App. N. M. Certiorari denied.

No. 13–27. LORD *v.* HALL ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 687.

No. 13–28. GALLAGHER *v.* LONG ET AL. Sup. Ct. Del. Certiorari denied. Reported below: 65 A. 3d 616.

No. 13–29. ANDOCHICK *v.* BYRD ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 709 F. 3d 296.

No. 13–30. YARUSSO *v.* 106 RESCUE WING, NEW YORK AIR NATIONAL GUARD, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 511 Fed. Appx. 13.

No. 13–31. PRICE *v.* STEEN, CHIEF ADMINISTRATOR OF THE TEXAS ALCOHOLIC BEVERAGE COMMISSION, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 361.

No. 13–32. DE LOS SANTOS *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS. C. A. 5th Cir. Certiorari denied.

No. 13–33. REYNOLDS ET UX. *v.* BANK OF CANTON ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–36. HALLIBURTON, INC., ET AL. *v.* KIRKENDALL ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 707 F. 3d 173.

No. 13–37. TRUSCIO *v.* NEW YORK (two judgments). Ct. App. N. Y. Certiorari denied. Reported below: 20 N. Y. 3d 1065, 985 N. E. 2d 926 (first judgment); 20 N. Y. 3d 1065, 985 N. E. 2d 927 (second judgment).

No. 13–39. SCHMALL *v.* NEVADA DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1150.

No. 13–40. JONES *v.* HOME BANK ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–41. VON DREHLE CORP. *v.* GEORGIA PACIFIC CONSUMER PRODUCTS, LP, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 710 F. 3d 527.

No. 13–44. LINDELL *v.* IOWA. Sup. Ct. Iowa. Certiorari denied. Reported below: 828 N. W. 2d 1.

No. 13–45. LAMAS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL. *v.* ELEY. C. A. 3d Cir. Certiorari denied. Reported below: 712 F. 3d 837.

No. 13–46. PERSON *v.* SHEETS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 419.

No. 13–47. CUNNINGHAM *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 413.

No. 13–48. LAPIN *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–49. JAMES L. *v.* DEVIN H. ET AL. Ct. App. Tex., 5th Dist. Certiorari denied. Reported below: 378 S. W. 3d 542.

No. 13–50. CHON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 F. 3d 812.

No. 13–51. MOORE, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL. *v.* PUBLICIS GROUPE SA ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–54. RYAN *v.* DONLEY, SECRETARY OF THE AIR FORCE. C. A. 10th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 687.

No. 13–57. IRIZARRY *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 100.

No. 13–59. MORALES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 295.

No. 13–60. HUANG ET AL. *v.* NEW JERSEY BUREAU OF SECURITIES. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–61. BELL *v.* HERCULES LIFTBOAT CO., L. L. C. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 64.

No. 13–62. Ashland Hospital Corp., dba King's Daughters Medical Center *v.* Service Employees International Union, District 1199. C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 3d 737.

No. 13–64. Fein et ux. *v.* Commissioner of Internal Revenue. C. A. 2d Cir. Certiorari denied. Reported below: 504 Fed. Appx. 41.

No. 13–65. Durkee et al. *v.* Geologic Solutions, Inc., et al. C. A. 4th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 326.

No. 13–66. Dwight R. *v.* Christy B. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied. Reported below: 212 Cal. App. 4th 697, 151 Cal. Rptr. 3d 406.

No. 13–67. Sanchez-Campuzano et al. *v.* Playboy Enterprises, Inc. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 219.

No. 13–68. PAC Pacific Group International, Inc. *v.* NGC Network Asia, L. L. C. C. A. 2d Cir. Certiorari denied. Reported below: 511 Fed. Appx. 86.

No. 13–70. Lowery et al. *v.* Deal, Governor of Georgia. C. A. 11th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 885.

No. 13–71. Williams, Individually and as Personal Representative of the Estate of Williams and Successor Trustee of the Charles L. Williams Living Trust *v.* Shafer, Clark County Public Administrator, et al. C. A. 9th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 413.

No. 13–72. Araya *v.* Bayly, Judge, Superior Court of the District of Columbia. C. A. D. C. Cir. Certiorari denied.

No. 13–74. Hsu, Individually and as Trustee of the Darru K. Hsu and Gina T. Hsu Living Trust U/A05/05/03 *v.* UBS Financial Services, Inc. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 716.

No. 13–75. Hicker *v.* California. App. Div., Super. Ct. Cal., County of San Diego. Certiorari denied.

No. 13–76. Rogozinski *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 900.

No. 13–77. Novartis Pharmaceuticals Corp. *v.* Puerto Rico Department of Consumer Affairs. Sup. Ct. P. R. Certiorari denied.

No. 13–78. Viera *v.* Texas. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 13–80. Shumin Zhang *v.* Sugars et al. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 13–81. Carrasco *v.* City of Bryan, Texas. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 325.

No. 13–82. Pathria *v.* University of Texas Health Science Center at San Antonio. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 454.

No. 13–83. Sunde et ux. *v.* Crockett et al. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1155.

No. 13–84. Americans for Safe Access et al. *v.* Drug Enforcement Administration. C. A. D. C. Cir. Certiorari denied. Reported below: 706 F. 3d 438.

No. 13–86. Tearman *v.* United States. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 54.

No. 13–88. Lehigh Gas Corp. *v.* Jimico Enterprises, Inc., et al. C. A. 2d Cir. Certiorari denied. Reported below: 708 F. 3d 106.

No. 13–90. Johnson et al. *v.* Barr et al. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 343.

No. 13–92. Sun Life & Health Insurance Co. *v.* Hannington. C. A. 1st Cir. Certiorari denied. Reported below: 711 F. 3d 226.

No. 13–94. Owens *v.* McDonald, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–96. Valles et al. *v.* Pima County, Arizona. C. A. 9th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 651.

No. 13–98. Cooper, Individually and as Next Friend of D. C. *v.* Black. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 672.

No. 13–100. Jackson *v.* Branca et al. Sup. Ct. Cal. Certiorari denied.

No. 13–101. Kulesa *v.* Rex et al. C. A. 3d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 743.

No. 13–102. May *v.* Arizona. Ct. App. Ariz. Certiorari denied.

No. 13–104. SNFA *v.* Russell, as Executor of the Estate of Russell, Deceased. Sup. Ct. Ill. Certiorari denied. Reported below: 2013 IL 113909, 987 N. E. 2d 778.

No. 13–105. al-Marri *v.* Berkebile, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 714 F. 3d 1183.

No. 13–106. Beneficial West Virginia Inc. *v.* Britton et ux. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–107. White *v.* Baptist Memorial Health Care Corp. et al. C. A. 6th Cir. Certiorari denied. Reported below: 699 F. 3d 869.

No. 13–109. Mariano Martinez *v.* Ryan, Director, Arizona Department of Corrections. C. A. 9th Cir. Certiorari denied.

No. 13–110. Johnson *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 707 F. 3d 655.

No. 13–111. Martino *v.* Western & Southern Financial Group. C. A. 7th Cir. Certiorari denied. Reported below: 715 F. 3d 195.

No. 13–112. Long *v.* Ohio. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2012-Ohio-5724.

No. 13–114. Javier Monreal *v.* New York et al. C. A. 2d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 11.

No. 13–117. Rhodes *v.* United States et al. C. A. 2d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 703.

No. 13–118. Regatta Bay Ltd. *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 617.

No. 13–119. Wilkes *v.* Missouri. Sup. Ct. Mo. Certiorari denied.

No. 13–120. Kivanc et ux. *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 714 F. 3d 782.

No. 13–121. Sloan *v.* Bank of America N. A. Ct. App. Cal., 1st App. Dist., Div. 4. Certiorari denied.

No. 13–122. Whitaker *v.* Nash County, North Carolina, et al. C. A. 4th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 237.

No. 13–123. Kentucky *v.* N. C., a Child Under Eighteen. Sup. Ct. Ky. Certiorari denied. Reported below: 396 S. W. 3d 852.

No. 13–124. Livecchi *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 711 F. 3d 345.

No. 13–125. Johnson *v.* Horry County, South Carolina, et al. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 256.

No. 13–126. Leist *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 779.

No. 13–129. KM Enterprises, Inc., dba Emtrac Systems *v.* McDonald, Commissioner, New York State Department of Transportation. C. A. 2d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 12.

No. 13–131. Towns *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 718 F. 3d 404.

No. 13–135. Matheson, dba Jess's Wholesale *v.* Washington Department of Revenue. Ct. App. Wash. Certiorari denied.

No. 13–142. Safari Club International et al. *v.* Jewell, Secretary of the Interior, et al. C. A. D. C. Cir. Certiorari denied. Reported below: 709 F. 3d 1.

No. 13–143. HAYES *v.* HARMONY GOLD MINING CO. LTD. ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 509 Fed. Appx. 21.

No. 13–146. TEBEAU *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 713 F. 3d 955.

No. 13–147. HOWARD *v.* JOSEPH ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–150. COLLVINS *v.* HACKFORD ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 515.

No. 13–151. DESMARAIS *v.* JHELUM ENTERPRISES, LLC, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 671.

No. 13–154. BURGE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 711 F. 3d 803.

No. 13–156. ASSARIATHU ET AL. *v.* LONE STAR HEALTH MANAGEMENT ASSOCIATES, LP, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 315.

No. 13–157. HOOTEN *v.* IKARD SERVI GAS, DBA HERITAGE PROPANE, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 663.

No. 13–158. SADIK *v.* HOLDER, ATTORNEY GENERAL. C. A. 10th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 723.

No. 13–159. SOOBZOKOV *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 98.

No. 13–160. MERCER *v.* GUPTA. C. A. 2d Cir. Certiorari denied. Reported below: 712 F. 3d 756.

No. 13–163. DOMASCHKO ET UX., CO-TRUSTEES OF THE NICK DOMASCHKO LIVING REVOCABLE TRUST, ET AL. *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 983 N. E. 2d 182.

No. 13–168. BOWERSOX *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 71.

No. 13–175. SUTHERLAND *v.* LEONHART, ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 598.

No. 13–177. CLAY ET UX. *v.* SHARP. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 354.

No. 13–178. MACNEILL *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir. Certiorari denied. Reported below: 524 Fed. Appx. 638.

No. 13–183. FLAHERTY *v.* JUSTICES OF THE HAVERHILL DIVISION OF THE DISTRICT COURT DEPARTMENT OF THE TRIAL COURT ET AL. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 120, 981 N. E. 2d 745.

No. 13–184. PADILLA *v.* NEW YORK. Ct. App. N. Y. Certiorari denied. Reported below: 21 N. Y. 3d 268, 992 N. E. 2d 414.

No. 13–191. PHILIP MORRIS USA INC. ET AL. *v.* DOUGLAS, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DOUGLAS. Sup. Ct. Fla. Certiorari denied. Reported below: 110 So. 3d 419.

No. 13–199. PRIMEAU *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2012-Ohio-5172.

No. 13–206. SCRUGGS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 258.

No. 13–208. THORNE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 55 A. 3d 873.

No. 13–210. TORRES-CORONADO *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 314.

No. 13–213. PRAKASH *v.* ALTADIS U. S. A., INC., ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–215. MITRANO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–220. FISCHER *v.* CITY OF NEW YORK, NEW YORK, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 32.

No. 13–221. HEIKE *v.* GUEVARA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 911.

No. 13–222. FLOOD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 713 F. 3d 1281.

No. 13–223. ALLEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–224. COLLUM *v.* PAYPAL ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 611.

No. 13–226. ALEXANDER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 714 F. 3d 1085.

No. 13–230. TOWNSEND *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 755.

No. 13–233. COUNTY OF OAKLAND, CALIFORNIA, ET AL. *v.* FEDERAL HOUSING FINANCE AGENCY ET AL.; and

No. 13–237. MICHIGAN DEPARTMENT OF ATTORNEY GENERAL ET AL. *v.* FEDERAL HOUSING FINANCE AGENCY ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 716 F. 3d 935.

No. 13–241. BLAIR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 225.

No. 13–251. JAMES S. ET UX. *v.* MATT G. ET UX. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 760.

No. 13–270. YUFENG WEI *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 711 F. 3d 1.

No. 13–272. RAWLINS *v.* KANSAS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 714 F. 3d 1189.

No. 13–277. ARLEDGE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 83.

No. 13–5001. BARBER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 270.

No. 13–5003. GOLEMBIEWSKI *v.* LOGIE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 476.

No. 13–5004. FERNANDEZ ET AL. *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 710 F. 3d 847.

No. 13–5006. CRUZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 713 F. 3d 600.

No. 13–5007. DIAZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 849.

No. 13–5009. JAIMES YANEZ *v.* UNITED STATES (Reported below: 546 Fed. Appx. 331); and TRUJILLO-MORALES *v.* UNITED STATES (545 Fed. Appx. 288). C. A. 5th Cir. Certiorari denied.

No. 13–5010. KETCHMORE *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 324.

No. 13–5011. GARCIA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 492 Fed. Appx. 700.

No. 13–5012. HANDY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5013. ALBERTO GUTIERREZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–5014. HEPBURN *v.* EAGLETON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 197.

No. 13–5015. GRADY *v.* WINDERS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 242.

No. 13–5016. HENSON *v.* HART, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–5017. HARRIS *v.* OUTLAW, WARDEN. C. A. 8th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 588.

No. 13–5018. FELLER *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2012 IL App (3d) 110164, 978 N. E. 2d 1103.

No. 13–5019. GREEN *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 13–5020. HENDERSON *v.* KLEVENHAGEN ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–5021. HERNANDEZ *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 110301–U.

No. 13–5022. GORE *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–5024. GARIBY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5025. GIVENS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 869.

No. 13–5026. CREEK *v.* UNITED STATES ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–5027. VASQUEZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 104.

No. 13–5028. WAGNER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 488 Fed. Appx. 760.

No. 13–5029. TOWNSEND *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5030. LEE *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 869.

No. 13–5031. ANTONIO LOPEZ *v.* UNITED STATES (Reported below: 518 Fed. Appx. 269); GARCIA-LOPEZ *v.* UNITED STATES (518 Fed. Appx. 280); GRIMALDO *v.* UNITED STATES (532 Fed. Appx. 504); CORTINAS-ALDAPE *v.* UNITED STATES (519 Fed. Appx. 264); CAVAZOS-SALAZAR *v.* UNITED STATES (519 Fed. Appx. 329); MONIET-WONG, AKA HUERTA *v.* UNITED STATES (528 Fed. Appx. 406); BETANCOURT-NUNEZ, AKA JUAREZ-GARCIA *v.* UNITED STATES (528 Fed. Appx. 417); ZAMORA-GARCIA *v.* UNITED STATES (528 Fed. Appx. 416); ESTRADA *v.* UNITED STATES (530 Fed. Appx. 384); VALENCIA-MOSQUERA *v.* UNITED STATES (532 Fed. Appx. 557); and RODRIGUEZ-ESCARENO *v.* UNITED STATES (700 F. 3d 751). C. A. 5th Cir. Certiorari denied.

No. 13–5032. JOHNSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5033. MOREL *v.* FARLEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5034. Neri Prado *v.* City of Fredericksburg Police Department et al. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 262.

No. 13–5036. Conway *v.* Illinois Department of Corrections et al. Sup. Ct. Ill. Certiorari denied.

No. 13–5037. Bumpers *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 705 F. 3d 168.

No. 13–5038. Buck *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 13–5039. Amaya *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 784.

No. 13–5041. Alexander *v.* Colorado. Ct. App. Colo. Certiorari denied.

No. 13–5042. Thomas *v.* Kerestes, Superintendent, State Correctional Institution at Mahanoy, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5043. Tenison *v.* Morgan et al. C. A. 10th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 824.

No. 13–5044. Burd *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 13–5045. Christian *v.* Oklahoma. Ct. Crim. App. Okla. Certiorari denied.

No. 13–5046. Allen *v.* Bartkowski et al. C. A. 3d Cir. Certiorari denied.

No. 13–5047. Brown *v.* Westbrooks, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–5048. Baynard *v.* Texas. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 13–5049. Ahern *v.* Clay, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5050. Belcher *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 115 So. 3d 998.

No. 13–5051. Keith *v.* McCabe, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 280.

No. 13–5052. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 395.

No. 13–5053. DAWS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 711 F. 3d 725.

No. 13–5054. VISERTO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5057. EASLEY *v.* DIETRICH ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5058. MOORE *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 703 F. 3d 562.

No. 13–5060. CLARK *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103158–U.

No. 13–5061. WILLIAMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5063. WORTHAN *v.* FRINK, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 671.

No. 13–5065. WILSON *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 706 F. 3d 1286.

No. 13–5066. MARTINIANO, NEXT FRIEND OF REID *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 396 S. W. 3d 478.

No. 13–5067. DUNN *v.* OKLAHOMA ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 766.

No. 13–5069. LOVETTE ET AL. *v.* NORTH CAROLINA DEPARTMENT OF CORRECTION ET AL. Sup. Ct. N. C. Certiorari denied. Reported below: 366 N. C. 471, 737 S. E. 2d 737.

No. 13–5070. MAGWOOD *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5073. STEFFLER *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied.

No. 13–5074. RICHARDSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 63 A. 3d 820.

No. 13–5075. STROHL *v.* WINSTEAD, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CAMBRIDGE SPRINGS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5076. RAY *v.* STEELE, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 13–5077. RUEB *v.* ZAVARAS ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 831.

No. 13–5078. RED STAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–5079. ROSS *v.* DANFORTH ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5080. SNOW *v.* BLEDSOE, WARDEN. C. A. 3d Cir. Certiorari denied. Reported below: 512 Fed. Appx. 149.

No. 13–5081. SMITH *v.* IDAHO. Sup. Ct. Idaho. Certiorari denied.

No. 13–5082. RIOS *v.* LEWIS. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 250.

No. 13–5083. STOREY *v.* HUTCHISON ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5084. REYNARD *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 162.

No. 13–5085. SILSBY *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5087. IGLESIAS *v.* WAL-MART STORES, INC. Sup. Ct. Va. Certiorari denied.

No. 13–5088. BOSWELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 214.

No. 13–5089. AKWEI *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 291.

No. 13–5090. TERRELONGE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 151.

No. 13–5091. BARBER *v.* SCOTT ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5092. OJI *v.* FEDERAL BUREAU OF INVESTIGATION. C. A. 2d Cir. Certiorari denied.

No. 13–5093. OJI *v.* WESTCHESTER COUNTY POLICE DEPARTMENT. C. A. 2d Cir. Certiorari denied.

No. 13–5094. PHIPPS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 498.

No. 13–5095. MOBLEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 838.

No. 13–5096. OVERSTREET *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 713 F. 3d 627.

No. 13–5097. MILLER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5099. RICHARDSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 713 F. 3d 232.

No. 13–5100. RICE *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 292 Ga. 191, 733 S. E. 2d 755.

No. 13–5101. EDWARDS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 411.

No. 13–5103. BARTLETT *v.* JACKSON, CORRECTIONAL ADMINISTRATOR, NASH CORRECTIONAL INSTITUTION, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 281.

No. 13–5104. BARAJAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 710 F. 3d 1102.

No. 13–5105. BAILEY *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5106. BARBER *v.* CHAVEZ, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5107. BOGLE *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 55 A. 3d 140.

No. 13–5108. BENITEZ-ESPINOZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 513.

No. 13–5110. Craig *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 487.

No. 13–5111. Pascual *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 502 Fed. Appx. 75.

No. 13–5112. Owen *v.* Sports Gymnastics Federation of Russia. C. A. 1st Cir. Certiorari denied.

No. 13–5113. Powell *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 826.

No. 13–5114. Moorer *v.* Bunting, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–5115. Ramon Quiroz *v.* Clark, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5116. Riley *v.* Oklahoma. Ct. Crim. App. Okla. Certiorari denied.

No. 13–5117. Smith *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 13–5118. Robinson *v.* Smith et al. C. A. 8th Cir. Certiorari denied.

No. 13–5119. Rawlings *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 217.

No. 13–5120. Scantland *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 13–5121. Kelly *v.* Bartkowski et al. C. A. 3d Cir. Certiorari denied.

No. 13–5122. Dickens *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 239.

No. 13–5123. Mabe *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 620.

No. 13–5124. Bullard *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5125. Boniecki *v.* Stewart et al. C. A. 6th Cir. Certiorari denied.

No. 13–5126. ZAHURSKY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5127. THOMPSON *v.* RUNNELS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 705 F. 3d 1089.

No. 13–5128. MCINTOSH *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–5129. POLZIN *v.* BAENEN. C. A. 7th Cir. Certiorari denied.

No. 13–5130. PEYTON *v.* GIPSON, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5131. MADDIN *v.* CARPENTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5132. LARANETA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 700 F. 3d 983.

No. 13–5133. ONTIVERAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 387.

No. 13–5134. DELGADO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5135. NOFSINGER *v.* VIRGINIA COMMONWEALTH UNIVERSITY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 204.

No. 13–5137. MOORE *v.* RAPELJE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5138. MURRAY *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5140. DREWRY *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied.

No. 13–5141. JUAREZ-SANTAMARIA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 306.

No. 13–5142. LESTER *v.* BUTCH. Ct. App. Ga. Certiorari denied. Reported below: 319 Ga. App. 125, 735 S. E. 2d 122.

No. 13–5143. ALLEN *v.* BENNETT, SHERIFF, GLYNN COUNTY, GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5144. BASSETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 164.

No. 13–5145. WILLIAMS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2012–2716 (La. 5/3/13), 113 So. 3d 213.

No. 13–5146. TORRES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 810.

No. 13–5147. VICTOR *v.* ROSCOMMON COUNTY PROBATION DEPARTMENT ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5148. DOTSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 712 F. 3d 369.

No. 13–5149. EVANS *v.* HEATH, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 712 F. 3d 125.

No. 13–5150. WOOD *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied. Reported below: 693 F. 3d 1104.

No. 13–5151. MORALES *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 111 So. 3d 193.

No. 13–5153. JONES *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5155. DISCO *v.* COLEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FAYETTE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5156. FREDERICK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 708 F. 3d 1286.

No. 13–5157. FERNANDEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 796.

No. 13–5158. GONZALEZ-MELCHOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 646.

No. 13–5159. HAASE *v.* PEARL RIVER POLYMERS, INC., ET AL. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 13–5160. HERNANDEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 711 F. 3d 1194.

No. 13–5161. FULLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5162. HESTER *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 292 Ga. 356, 736 S. E. 2d 404.

No. 13–5163. FLEMINGS *v.* MORAN ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–5164. HURST *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5165. RICHARDS *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2012 IL App (4th) 111051–U.

No. 13–5166. JONES *v.* MCCLARTY, JUDGE, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5167. KING *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 596.

No. 13–5168. JACOBS *v.* NONPUBLIC POSTSECONDARY EDUCATION COMMISSION. Ct. App. Ga. Certiorari denied.

No. 13–5170. LOZA *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–5171. MEFFORD *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 711 F. 3d 923.

No. 13–5172. BEALE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 792.

No. 13–5173. SUN BEAR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 618.

No. 13–5174. ACEVEDO-HERRERA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 239.

No. 13–5175. ALLISON *v.* UNITED STATES (Reported below: 518 Fed. Appx. 324); CONTRERAS *v.* UNITED STATES (546 Fed. Appx. 338); TREJO-DOMINGUEZ *v.* UNITED STATES (544 Fed. Appx. 434); MARTINEZ *v.* UNITED STATES (524 Fed. Appx. 993); MALLORY *v.* UNITED STATES (528 Fed. Appx. 417); ALEJANDRO RAMOS

v. UNITED STATES (528 Fed. Appx. 400); TREJO, AKA TREJO-GONZALEZ *v.* UNITED STATES; CABALLERO-ESCAMILLA *v.* UNITED STATES (528 Fed. Appx. 414); KELLER *v.* UNITED STATES (530 Fed. Appx. 351); BERNAL-ELIZONDO *v.* UNITED STATES (528 Fed. Appx. 415); MERRELL *v.* UNITED STATES (528 Fed. Appx. 415); and JORGE-MENDOZA *v.* UNITED STATES (528 Fed. Appx. 403). C. A. 5th Cir. Certiorari denied.

No. 13–5176. DAVENPORT *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 13–5177. DE-LUIS-CONTI *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 680.

No. 13–5178. DOSCHER *v.* SWIFT TRANSPORTATION. C. A. 9th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 724.

No. 13–5179. BLANCO-AVALOS *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied.

No. 13–5180. NORTHINGTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 795.

No. 13–5181. CUNNINGHAM *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5182. COPELAND *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 760.

No. 13–5183. STEINER *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 111 So. 3d 896.

No. 13–5184. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 347.

No. 13–5185. SCHOPPE-RICO *v.* HOREL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5187. SIMMONS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 13–5188. SMITH *v.* BAXTER ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5189. REAGLE *v.* JONES, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 749.

No. 13–5190. RODRIGUEZ *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5191. SINCLAIR *v.* CITI MORTGAGE, INC., ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 737.

No. 13–5192. RINERE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 517 Fed. Appx. 30.

No. 13–5193. JEEP *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–5194. YOUNGGIL KIM, AKA KIM *v.* HOLDER, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 13–5195. LASTER *v.* KRYSTAL CO. ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5196. THRASHER *v.* MISSOURI DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Certiorari denied.

No. 13–5197. REYES VASALLO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 147.

No. 13–5198. STEINER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 114 So. 3d 936.

No. 13–5199. CARTER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 377.

No. 13–5200. STANKO *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 402 S. C. 252, 741 S. E. 2d 708.

No. 13–5201. ESCOBAR-MARROQUIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 262.

No. 13–5202. KADIRI *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5203. JENSEN *v.* PASH, WARDEN. Sup. Ct. Mo. Certiorari denied.

No. 13–5204. WALKER *v.* LAWRENCEVILLE APARTMENTS. App. Ct. Mass. Certiorari denied. Reported below: 81 Mass. App. 1135, 966 N. E. 2d 868.

No. 13–5205. WEI CHIN *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 519 Fed. Appx. 690.

No. 13–5206. Woods *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 111170–U.

No. 13–5208. Hardy *v.* Massachusetts. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 464 Mass. 660, 984 N. E. 2d 727.

No. 13–5209. Hammond *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 712 F. 3d 333.

No. 13–5210. Daniel Hernandez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 282.

No. 13–5211. Foster *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 706 F. 3d 887.

No. 13–5212. Alexis *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 865.

No. 13–5213. Burr *v.* Lassiter, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 327.

No. 13–5214. Burton *v.* Thomas, Commissioner, Alabama Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 700 F. 3d 1266.

No. 13–5215. Burgess *v.* United States. C. A. 4th Cir. Certiorari denied.

No. 13–5216. Mendoza *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 484 Fed. Appx. 101.

No. 13–5217. McLellan *v.* Florida. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 109 So. 3d 1158.

No. 13–5218. Mendez-Valdez *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 317.

No. 13–5219. Pantano *v.* Donat, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 13–5220. Jeter *v.* Palmetto Health, dba Palmetto Health Internal Medicine Center. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 234.

No. 13–5221. Karboau *v.* City of Portland, Oregon, et al. C. A. 9th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 747.

No. 13–5222. LONKOSKI *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2013 WI 30, 346 Wis. 2d 523, 828 N. W. 2d 552.

No. 13–5223. CUEVAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 163.

No. 13–5224. ROGERS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–5226. RALPH *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. Sup. Ct. Va. Certiorari denied.

No. 13–5227. SANCHEZ *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5228. PUCKETT *v.* LOPEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5230. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5231. BLAKE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 587.

No. 13–5232. JACKSON *v.* CURRY. C. A. 4th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 225.

No. 13–5233. JACKSON, AS ADMINISTRATRIX OF THE ESTATE OF GIGUERE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 708 F. 3d 23.

No. 13–5234. GJELAJ *v.* LEE, SUPERINTENDENT, GREEN HAVEN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–5235. HUSBAND *v.* DENMARK, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–5236. GRAY *v.* ULIT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 653.

No. 13–5237. HYACINTH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5238. HALL *v.* SANDOR, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5240. GRADY *v.* WAYNE COUNTY CLERK OF COURT. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 265.

No. 13–5241. HARPER *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 102 So. 3d 272.

No. 13–5242. HURST *v.* MCEWEN, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5243. RAMOS-CARRILLO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 739.

No. 13–5244. RAVEN *v.* OKLAHOMA. Sup. Ct. Okla. Certiorari denied.

No. 13–5245. SORO *v.* SORO. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 97 So. 3d 310.

No. 13–5246. SCHOPPE-RICO *v.* RUPERT. C. A. 9th Cir. Certiorari denied.

No. 13–5247. MELENDEZ *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–5248. MEHERG *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 714 F. 3d 457.

No. 13–5249. PEREZ *v.* COLORADO. Sup. Ct. Colo. Certiorari denied. Reported below: 302 P. 3d 222.

No. 13–5250. PEDROZA *v.* TILTON, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 554.

No. 13–5253. BARKLEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5254. BROOKS *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–5255. BONDS *v.* LOUISIANA. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 2011–1674 (La. App. 4 Cir. 10/3/12), 101 So. 3d 531.

No. 13–5256. PETERSON *v.* TIMME, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 830.

No. 13–5258. SERRANO-NAVARRO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 558.

No. 13–5259. RODRIGUEZ-REYES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 714 F. 3d 1.

No. 13–5261. HERNANDEZ *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 618.

No. 13–5262. GOSS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 915.

No. 13–5263. GAXIOLA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5264. ANGEL GONZALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 288.

No. 13–5265. VAN ROSS *v.* SHELTON, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 723.

No. 13–5266. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 379.

No. 13–5267. WHITWORTH *v.* STORY ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5269. FREEMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 317.

No. 13–5270. VILLARREAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 236.

No. 13–5271. WILLIAMS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 420.

No. 13–5272. YUMAN-HERNANDEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 F. 3d 471.

No. 13–5273. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5274. SIALEU *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 734.

No. 13–5275. Platts *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 13–5277. Hynes *v.* Caraway, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–5278. Fagan *v.* New York. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 98 App. Div. 3d 1270, 951 N. Y. S. 2d 612.

No. 13–5279. Guerrero *v.* Dexter, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5280. Gregory *v.* Adams, Judge, Superior Court of Georgia, Whitfield County, et al. C. A. 11th Cir. Certiorari denied.

No. 13–5281. Gil *v.* Lewis, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5282. Schoppe-Rico *v.* Horel, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 13–5283. Holtsinger *v.* California. Sup. Ct. Cal. Certiorari denied.

No. 13–5284. Harris *v.* Gee, Sheriff, Hillsborough County, Florida. C. A. 11th Cir. Certiorari denied.

No. 13–5285. Fourstar *v.* Eckroth et al. C. A. 3d Cir. Certiorari denied. Reported below: 512 Fed. Appx. 127.

No. 13–5286. Green *v.* Coleman, Superintendent, State Correctional Institution at Fayette, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5287. Hall *v.* Scutt, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 482 Fed. Appx. 990.

No. 13–5288. Wilson *v.* Morrissey et al. C. A. 10th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 742.

No. 13–5289. James *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 520 Fed. Appx. 41.

No. 13–5290. Manzini *v.* Florida Bar et al. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 978.

No. 13–5291. EVANS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 155.

No. 13–5292. WARREN H. *v.* BALLARD, WARDEN. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–5293. GATES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 709 F. 3d 58.

No. 13–5294. EMORY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 352.

No. 13–5295. BELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 880.

No. 13–5296. BARBER *v.* SUPERIOR COURT OF CALIFORNIA, SANTA BARBARA COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 13–5297. MAY *v.* PATTERSON ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5298. PANICE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5299. POOLER *v.* CAIN, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–5301. HORAN, AKA CAROSELLI *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 99 App. Div. 3d 1021, 952 N. Y. S. 2d 473.

No. 13–5303. PATTERSON *v.* DAVIS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 610.

No. 13–5304. MINTZ *v.* MCCABE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 359.

No. 13–5305. PAGONIS *v.* TEXAS DEPARTMENT OF CRIMINAL JUSTICE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 328.

No. 13–5306. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 841.

No. 13–5307. CASE *v.* HATCH, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 731 F. 3d 1015.

No. 13–5309. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5310. HOLLINS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 264.

No. 13–5311. BRABHAM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 907.

No. 13–5312. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 625.

No. 13–5313. AMBROSE *v.* GODINEZ ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 470.

No. 13–5314. RAMON-HERRADA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 397.

No. 13–5315. PALMER *v.* ADAMS. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 308.

No. 13–5317. ROCHELLE *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 297 Kan. 32, 298 P. 3d 293.

No. 13–5320. RIGGINS *v.* BOOKER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5321. BLACKBURN *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 769.

No. 13–5325. BRIMEYER *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 3.

No. 13–5326. KANE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 761.

No. 13–5327. WINKELMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–5328. WINKELMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–5329. YOWELL *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 311.

No. 13–5331. SMITH-HODGES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 354.

No. 13–5332. ROSE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 714 F. 3d 362.

No. 13–5333. SMART *v.* TENNESSEE ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5334. SCOTT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 647.

No. 13–5335. RICHARDS *v.* BRITISH PETROLEUM ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 378.

No. 13–5336. CABRERA-ORELLANA *v.* UNITED STATES (Reported below: 518 Fed. Appx. 313); ECHAVARRIA-ESPINOZA *v.* UNITED STATES (546 Fed. Appx. 351); and MUNOZ-GUERRERO *v.* UNITED STATES (547 Fed. Appx. 416). C. A. 5th Cir. Certiorari denied.

No. 13–5337. EDDINGS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 115.

No. 13–5340. SEIBEL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 712 F. 3d 1229.

No. 13–5341. PATRICK ET AL. *v.* ALBUQUERQUE SCHOOL DISTRICT ET AL. C. A. 10th Cir. Certiorari denied.

No. 13–5342. WILLIAMS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–5343. TAYLOR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5344. TURNER *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied.

No. 13–5345. TAYLOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 284.

No. 13–5346. RYALS *v.* MONTGOMERY COUNTY, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 75.

No. 13–5347. BRADDY *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 111 So. 3d 810.

No. 13–5348. BATTS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 135.

No. 13–5349. BALDWIN *v.* DIAZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5352. PATTERSON *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–5353. ELLISON *v.* MORECI ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 489.

No. 13–5355. HALL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 352.

No. 13–5357. ALLEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 406.

No. 13–5358. BRISSEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 481.

No. 13–5360. BARBER *v.* FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 13–5361. KAREEM *v.* FEDERAL DEPOSIT INSURANCE CORPORATION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 482 Fed. Appx. 594.

No. 13–5362. GARRETT *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5363. HERRERA *v.* GINTER ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5364. FLORES *v.* TEXAS. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 13–5365. HOOD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 812.

No. 13–5366. GILLIAM *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 62 A. 3d 107.

No. 13–5367. REDD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 173.

No. 13–5368. SMITH, AKA LARRY *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–5369. HUYNH *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied. Reported below: 212 Cal. App. 4th 285, 151 Cal. Rptr. 3d 170.

No. 13–5370. VAN HARRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 204.

No. 13–5372. HILL *v.* MISSISSIPPI ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–5373. GLISPY *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 110 So. 3d 463.

No. 13–5374. MARTINEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 485 Fed. Appx. 334.

No. 13–5375. TURNER *v.* CRAIG ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 587.

No. 13–5376. MABRY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 236.

No. 13–5377. THOMPSON *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 159 So. 3d 797.

No. 13–5378. WALKER *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 157.

No. 13–5379. WALKER *v.* WILLIAMS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 685.

No. 13–5381. JOYNER *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 13–5382. MEDINA-CAMPO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 714 F. 3d 232.

No. 13–5383. STEINER *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 114 So. 3d 181.

No. 13–5384. MACLLOYD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 434.

No. 13–5385. ROBINSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5386. IGLESIAS *v.* WAL-MART STORES, INC. Sup. Ct. Va. Certiorari denied.

No. 13–5387. Quintana Rojano *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 375.

No. 13–5388. Enriquez Mendez *v.* California. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 13–5389. Berg *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 714 F. 3d 490.

No. 13–5391. Smith, aka Harris *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 13–5392. Collington *v.* Department of Human Resources et al. C. A. D. C. Cir. Certiorari denied.

No. 13–5393. Donley *v.* Hudsons Salvage, L. L. C., et al. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 216.

No. 13–5394. Carneglia *v.* United States. C. A. 2d Cir. Certiorari denied.

No. 13–5395. McDaniel *v.* Pennsylvania Department of Corrections et al. C. A. 3d Cir. Certiorari denied.

No. 13–5396. Garcia-Navar, aka Navar-Garcia *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 13–5397. Avalos Perez *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5400. Brooks *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 846.

No. 13–5401. Basaldua *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 207.

No. 13–5402. Williams *v.* Rivard, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–5403. Williams *v.* Guzman et al. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 388.

No. 13–5404. Pittman *v.* Nebraska. Sup. Ct. Neb. Certiorari denied. Reported below: 285 Neb. 314, 826 N. W. 2d 862.

No. 13–5405. Vicks *v.* California. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 274, 295 P. 3d 863.

No. 13–5406. ORTA LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 315.

No. 13–5407. SIERRA-PESINA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 522.

No. 13–5408. ANDREWS *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 13–5409. CARPENTER *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 677.

No. 13–5410. SMART *v.* HARRINGTON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5411. RUFUS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 168.

No. 13–5412. KENDRICK *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5413. JOHNSON *v.* GANSLER, ATTORNEY GENERAL OF MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 156.

No. 13–5414. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 143.

No. 13–5417. DONALDSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 110 So. 3d 17.

No. 13–5418. EWING, AKA EWING BEY *v.* YOUNG, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 267.

No. 13–5419. HODGE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 714 F. 3d 380.

No. 13–5420. GARNER *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 100931–U.

No. 13–5421. PHIPPS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 209.

No. 13–5422. OLIVARES-LOPEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 205.

No. 13–5424. Sauseda *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 349.

No. 13–5425. Snow *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 808.

No. 13–5426. Whitlow *v.* United States. C. A. 1st Cir. Certiorari denied. Reported below: 714 F. 3d 41.

No. 13–5427. Lopez Hernandez *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 908.

No. 13–5428. Lucero *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 713 F. 3d 1024.

No. 13–5429. Koering *v.* Sullivan, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 665.

No. 13–5432. Wilson *v.* Holder, Attorney General, et al. C. A. 3d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 169.

No. 13–5433. Allen *v.* Avance. C. A. 10th Cir. Certiorari denied.

No. 13–5434. Boroczk *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 705 F. 3d 616.

No. 13–5435. Brown *v.* Dove et al. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 237.

No. 13–5437. Ramirez *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 714 F. 3d 1134.

No. 13–5438. Smith *v.* Clements, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–5439. Nixon *v.* Unknown. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 334.

No. 13–5440. Putnam *v.* Massachusetts. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1115, 982 N. E. 2d 1225.

No. 13–5441. Payton *v.* Louisiana. Sup. Ct. La. Certiorari denied. Reported below: 2013–0064 (La. 5/24/13), 117 So. 3d 99.

No. 13–5442. VILLANUEVA LABASTIDA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–5443. KELSO *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–5445. JUSTICE *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 13–5446. JOHNSON *v.* GILES, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 60.

No. 13–5447. LEWIS *v.* CHAPPIUS, SUPERINTENDENT, ELMIRA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–5448. CASTELLANO *v.* MCEWAN, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 713.

No. 13–5449. ANTONIO DEJESUS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–5450. WOODWARD *v.* AMERICAN UNIVERSITY OF ANTIGUA COLLEGE OF MEDICINE. C. A. 6th Cir. Certiorari denied.

No. 13–5452. BUTLER *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5453. SMITH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 263.

No. 13–5454. SANDERS *v.* VIRGINIA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 490 Fed. Appx. 573.

No. 13–5455. ROBINSON *v.* DISTRICT ATTORNEY OF PHILADELPHIA COUNTY ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5456. FLETCHER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 89.

No. 13–5457. SILVA ZAPATA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 327.

No. 13–5458. STRAND ET AL. *v.* GOLDEN MEADOWS PROPERTIES, LC. Ct. App. Utah. Certiorari denied.

No. 13–5460. GELIN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 712 F. 3d 612.

No. 13–5461. Garcia *v.* Jacquez, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5462. Forrest *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 13–5463. Falcon *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 13–5464. Sernas *v.* Arizona. Ct. App. Ariz. Certiorari denied.

No. 13–5465. Shareef *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 13–5466. Howell *v.* Young, Judge, Superior Court of Delaware, Kent County. C. A. 3d Cir. Certiorari denied.

No. 13–5468. Tschida *v.* Alabama. Ct. Crim. App. Ala. Certiorari denied. Reported below: 159 So. 3d 799.

No. 13–5469. Youngblood *v.* Feather Falls Casino et al. C. A. 9th Cir. Certiorari denied.

No. 13–5470. A. M. M. *v.* Colorado. Ct. App. Colo. Certiorari denied.

No. 13–5471. Garcia Ornelas *v.* Gipson, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5472. Hinnant *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 936.

No. 13–5473. Fagan *v.* Fayram, Warden, et al. C. A. 8th Cir. Certiorari denied.

No. 13–5474. Garcia-Mendoza *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 641.

No. 13–5475. Grandberry *v.* Wenerowicz, Superintendent, State Correctional Institution at Graterford, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5476. Hockman *v.* Virginia. Sup. Ct. Va. Certiorari denied.

No. 13–5477. Henderson *v.* Florida. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 109 So. 3d 795.

No. 13–5478. GRIFFIN *v.* CLEMENTS, EXECUTIVE DIRECTOR, COLORADO DEPARTMENT OF CORRECTIONS. Ct. App. Colo. Certiorari denied.

No. 13–5479. SERRANO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 184.

No. 13–5480. TAURUS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. Sup. Ct. Colo. Certiorari denied.

No. 13–5481. AUGUSTINE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 F. 3d 1290.

No. 13–5485. CASTILLO *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 713 F. 3d 407.

No. 13–5486. EMMONS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 995.

No. 13–5488. JONES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 888.

No. 13–5489. LANGFORD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 189.

No. 13–5490. MORALES *v.* BRADT, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–5491. JACKSON *v.* HARGADON. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 270.

No. 13–5492. REILLY *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 116 So. 3d 386.

No. 13–5495. MOORE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 706 F. 3d 926.

No. 13–5496. BROWN *v.* CAPOZZA, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT PITTSBURGH, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5497. DODD *v.* SEMMES, BOWEN & SEMMES. Ct. Sp. App. Md. Certiorari denied. Reported below: 207 Md. App. 766 and 777.

No. 13–5498. ALEJANDRO CARRILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 662.

No. 13–5499. Dinkins *v.* Giroux, Superintendent, State Correctional Institution at Muncy, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5500. Davis *v.* Pennsylvania. Super. Ct. Pa. Certiorari denied. Reported below: 64 A. 3d 23.

No. 13–5502. Spencer *v.* Michigan. Cir. Ct. Oakland County, Mich. Certiorari denied.

No. 13–5503. Switzer *v.* Dean et al. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 294.

No. 13–5504. Medina-Martinez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 344.

No. 13–5505. Propst *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5506. Standberry *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 381.

No. 13–5509. Youngblood *v.* Evans, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 13–5510. Brooks *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 433.

No. 13–5512. Bustos-Ochoa *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 704 F. 3d 1053 and 714 F. 3d 1133.

No. 13–5513. Kelly *v.* Perry, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–5514. Legette *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 322.

No. 13–5515. Wiggins *v.* St. Lukes Episcopal Health System. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 249.

No. 13–5516. Vickers *v.* Pearce, Warden. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 395.

No. 13–5518. Mungia *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 13–5519. PITTMAN *v.* TEXAS. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 13–5520. GANDY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 710 F. 3d 1234.

No. 13–5521. GALAZ-PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 95.

No. 13–5523. BRYANT *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 13–5524. WESTBROOK *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY. C. A. 3d Cir. Certiorari denied.

No. 13–5525. GUERRERO GALINDO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 812.

No. 13–5526. FARMER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 257.

No. 13–5528. MARTINEZ *v.* MARTINEZ ET AL. C. A. 10th Cir. Certiorari denied.

No. 13–5529. HOFLAND *v.* MAINE. Sup. Jud. Ct. Me. Certiorari denied. Reported below: 2012 ME 129, 58 A. 3d 1023.

No. 13–5530. HOCKMAN *v.* HOBBS, WARDEN. Sup. Ct. Va. Certiorari denied.

No. 13–5532. PEREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 287.

No. 13–5533. WILSON *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 13–5534. VELASQUEZ-LOPEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 559.

No. 13–5535. WINKELMAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 127.

No. 13–5536. JELINSKI *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–5539. NOVITSKIY *v.* HOLDER, ATTORNEY GENERAL. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 724.

No. 13–5540. MCWILLIAMS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5541. MONDRAGON-CARRILLO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 569.

No. 13–5542. CROSKEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5543. LASHLEY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 843.

No. 13–5544. CHISOLM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 87.

No. 13–5548. RILEY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 112464–U.

No. 13–5550. ROSS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 109 So. 3d 788.

No. 13–5552. VILLAFANA *v.* VIRGINIA. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 242.

No. 13–5553. CARDONA-ROSARIO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–5554. MARTIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 711 F. 3d 129.

No. 13–5555. WATSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 717 F. 3d 196.

No. 13–5556. JONES *v.* AMOLINSKI ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5557. BENJAMIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 711 F. 3d 371.

No. 13–5558. BUNCH *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 13–5560. Cook *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 812.

No. 13–5561. Vera *v.* Ryan, Director, Arizona Department of Corrections. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 603.

No. 13–5562. Whiteside *v.* Arkansas. Sup. Ct. Ark. Certiorari denied. Reported below: 2013 Ark. 176, 426 S. W. 3d 917.

No. 13–5563. Weeks *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 711 F. 3d 1255.

No. 13–5564. Walker *v.* Texas. Ct. App. Tex., 8th Dist. Certiorari denied.

No. 13–5565. Walker *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 638.

No. 13–5566. Rincon *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 13–5567. Santana-Smith *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 250.

No. 13–5569. Royal *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 377.

No. 13–5570. Cox *v.* Kentucky. Sup. Ct. Ky. Certiorari denied. Reported below: 394 S. W. 3d 867.

No. 13–5573. Mitchell *v.* Kelly, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 329.

No. 13–5577. Woods *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 710 F. 3d 195.

No. 13–5579. Thompson *v.* Florida. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 113 So. 3d 846.

No. 13–5580. Sarah W. *v.* South Carolina Department of Social Services. Sup. Ct. S. C. Certiorari denied. Reported below: 402 S. C. 324, 741 S. E. 2d 739.

No. 13–5581. Weston *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 526 Fed. Appx. 196.

No. 13–5582. KOONIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–5584. PEREZ-LEAL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 777.

No. 13–5585. COOPER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 873.

No. 13–5586. ABRAHAM *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–5587. ALVAREZ *v.* WELLS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5588. BERGERE *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5591. PARKER *v.* DEPARTMENT OF BEHAVIORAL HEALTH ET AL. Super. Ct. Gwinnett County, Ga. Certiorari denied.

No. 13–5594. KOCIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 865.

No. 13–5595. CORBETT *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 892.

No. 13–5600. THOMPSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 730.

No. 13–5601. RODAS, AKA RODAS-ESPOSITO, AKA CARLOS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 523 Fed. Appx. 731.

No. 13–5602. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 657.

No. 13–5605. MAHMOOD *v.* HOLDER, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 522 Fed. Appx. 118.

No. 13–5606. SLOAN *v.* BANK OF AMERICA N. A. Ct. App. Cal., 1st App. Dist., Div. 4. Certiorari denied.

No. 13–5607. LASTER *v.* CITY OF ALBANY, GEORGIA, WATER, GAS & LIGHT COMPANY. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 777.

No. 13–5608. MEGAN J. *v.* KATZ, COMMISSIONER, CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES. App. Ct. Conn. Certiorari denied. Reported below: 140 Conn. App. 626, 59 A. 3d 892.

No. 13–5611. WILLIAMS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5612. BARBEE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 15.

No. 13–5613. BISHOP *v.* OFFICE OF PERSONNEL MANAGEMENT ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 104.

No. 13–5616. BLAIR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 639.

No. 13–5618. VAZQUEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–5619. STEBBINS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 523 Fed. Appx. 1.

No. 13–5620. STANFILL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 714 F. 3d 1150.

No. 13–5621. WILLIAMS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 59 A. 3d 1278.

No. 13–5622. WHALEN *v.* MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 368 Mont. 354, 295 P. 3d 1055.

No. 13–5623. GATLIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 676.

No. 13–5624. HAYNES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 810.

No. 13–5628. HUFFMAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 426.

No. 13–5629. FIGUEROA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 501 Fed. Appx. 5.

No. 13–5636. Robertson *v.* United States. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 256.

No. 13–5638. Waldner *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 13–5642. Roush *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 349.

No. 13–5643. Smith *v.* Coleman, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 444.

No. 13–5644. Reberger *v.* Offender Management Division et al. C. A. 9th Cir. Certiorari denied.

No. 13–5645. Small *v.* Rozum, Superintendent, State Correctional Institution at Somerset. C. A. 3d Cir. Certiorari denied.

No. 13–5646. Guillermo Carrillo *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 767.

No. 13–5647. Maldonado Perez *v.* Gipson, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5648. Subh *v.* Wal-Mart Stores, Inc., et al. Ct. Sp. App. Md. Certiorari denied.

No. 13–5651. Chansamone *v.* NRG Northeast Affiliate Service, Inc. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 820.

No. 13–5652. Orozco Nunez *v.* McEwen, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–5653. Munar *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 305.

No. 13–5654. Chester *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 175.

No. 13–5658. Ferguson *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 13–5659. Frederick *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 526 Fed. Appx. 91.

No. 13–5660. DOW *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 976.

No. 13–5661. PARKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 449.

No. 13–5662. MCINTOSH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 783.

No. 13–5663. MCNEAIR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 258.

No. 13–5667. VILLARREAL-SOLIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5668. BUCZEK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5670. MOHABIR *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 510 Fed. Appx. 122.

No. 13–5673. POOLE *v.* FARLEY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5674. MOLEN *v.* TIMMERMAN-COOPER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5676. CRAWLEY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 551.

No. 13–5677. CONNOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 713 F. 3d 609.

No. 13–5678. PATTERSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5679. RIVERA-GARCIA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 527 Fed. Appx. 11.

No. 13–5680. SUMNER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 806.

No. 13–5681. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 528.

No. 13–5682. KELLY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 990.

No. 13–5683. JOHNSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 316.

No. 13–5685. MAGNER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 36.

No. 13–5688. BOLARINWA *v.* KAPLAN, SUPERINTENDENT, BEDFORD HILLS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–5689. BRYAN *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5694. WALLS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 529.

No. 13–5695. YOUNG *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 153.

No. 13–5697. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 344.

No. 13–5698. RIVERA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 304.

No. 13–5699. BARRY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 502 Fed. Appx. 85.

No. 13–5700. BATCHELOR *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 194.

No. 13–5701. BEY *v.* CAPELLO, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 405.

No. 13–5702. AGORO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–5703. BROWN *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 526 Fed. Appx. 941.

No. 13–5705. GEORGE *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA, ET AL. Sup. Ct. Ga. Certiorari denied.

No. 13–5707. PARKER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–5710. CHON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 855.

No. 13–5711. ROBERTSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 54.

No. 13–5712. JUAREZ-ESPINA *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied.

No. 13–5715. UNDERWOOD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 733.

No. 13–5719. LAKE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5720. KINGSBERRY *v.* MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 268.

No. 13–5721. LOPESIERRA-GUTIERREZ *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 708 F. 3d 193.

No. 13–5723. AMODEO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5724. ESQUIVEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5730. MCGARY *v.* RICHARDS. C. A. 9th Cir. Certiorari denied.

No. 13–5732. DOMINGUEZ-MEJIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 605.

No. 13–5733. RICHARD, AKA EARL, AKA NARRL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 323.

No. 13–5736. SUSSMAN *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5737. KEEL *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 394.

No. 13–5740. BROOKS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–5741. JONES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 741.

No. 13–5743. TYLER *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 580.

No. 13–5747. ROERING *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5751. SANCHEZ-GUERRERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5752. MITCHELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 411.

No. 13–5755. HALE *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 710 F. 3d 711.

No. 13–5760. CORSI *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 181.

No. 13–5762. GOODWIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 717 F. 3d 511.

No. 13–5764. CORZINE *v.* DEPARTMENT OF THE ARMY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 207.

No. 13–5768. ROGERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 866.

No. 13–5770. HOLMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 162.

No. 13–5771. GONZALEZ-CHAVEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 36.

No. 13–5772. BURNETT *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 62 A. 3d 726.

No. 13–5774. APPOLON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 715 F. 3d 362.

No. 13–5775. ANNORENO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 713 F. 3d 352.

No. 13–5776. WILSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 598.

No. 13–5778. WASHINGTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 714 F. 3d 962.

No. 13–5779. TOOLEY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 644.

No. 13–5781. SOTO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 720 F. 3d 51.

No. 13–5782. ROSALEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 711 F. 3d 1194.

No. 13–5786. LEAL *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5788. ESTRELLA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 822.

No. 13–5791. PENA, AKA ALVEREZ AYALA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–5792. OLDYN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5794. BURNSIDE *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 135.

No. 13–5797. HAYES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 361.

No. 13–5798. PERKINS *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–5799. MORRIS *v.* CURTIN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5802. TAYLOR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5803. DONATO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5804. CABRERA-COSME, AKA VILLALOBOS, AKA CANALES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 714 F. 3d 1.

No. 13–5805. CANTY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5806. Latania T. *v.* Illinois et al. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 121949–U.

No. 13–5811. Martin *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 13–5812. Barry *v.* Securities and Exchange Commission et al. C. A. 2d Cir. Certiorari denied.

No. 13–5813. Claudio et vir *v.* Philadelphia Department of Human Services et al. C. A. 3d Cir. Certiorari denied.

No. 13–5817. Maxwell *v.* New York. Ct. App. N. Y. Certiorari denied. Reported below: 21 N. Y. 3d 913, 988 N. E. 2d 893.

No. 13–5818. Martinez Suarez *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5819. Rith *v.* Rios, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 684.

No. 13–5821. Mikanda *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 72.

No. 13–5823. Taylor *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 13–5826. Gibson *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 708 F. 3d 1256.

No. 13–5827. Green *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 292.

No. 13–5828. Elias Gonzalez *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 270.

No. 13–5829. Shell *v.* Clarke, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 254.

No. 13–5832. Grant *v.* Nevada et al. C. A. 9th Cir. Certiorari denied.

No. 13–5833. Wingfield *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5837. Higgins *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 710 F. 3d 839.

No. 13–5838. Gomez-Cazares *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 13–5839. Hsia *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 176.

No. 13–5840. Hughes *v.* United States Postal Service. C. A. 7th Cir. Certiorari denied.

No. 13–5842. White *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 237.

No. 13–5843. Robertson *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 320.

No. 13–5844. Quick *v.* Alabama. Ct. Crim. App. Ala. Certiorari denied. Reported below: 159 So. 3d 799.

No. 13–5847. Martinez-Sanchez *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 13–5848. Castonguay *v.* Britton, Warden. C. A. 8th Cir. Certiorari denied.

No. 13–5850. Mauldin *v.* Department of Justice. C. A. 6th Cir. Certiorari denied.

No. 13–5853. Bradford *v.* Hobbs, Director, Arkansas Department of Correction. C. A. 8th Cir. Certiorari denied.

No. 13–5857. Ibanez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 544.

No. 13–5858. Hill *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 554.

No. 13–5859. Figueroa-Gaona *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 587.

No. 13–5861. Williamson *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 556.

No. 13–5866. Shea *v.* Kirkegard, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 13–5868. Schrubb *v.* Beard, Secretary, California Department of Corrections and Rehabilitation, et al.

C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 609.

No. 13–5872. HOWELL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–5873. GOUDEAU *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 390.

No. 13–5874. GABINO CHAVARRIA *v.* BUSBY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 720.

No. 13–5875. D'BINION *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 309.

No. 13–5876. DUDLEY, AKA BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 378.

No. 13–5877. WYNN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 596.

No. 13–5880. OJEDA BARRAZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 426.

No. 13–5882. ALLEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 551.

No. 13–5887. MCKIBBINS *v.* WILLIAMS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 572.

No. 13–5889. CIRVES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–5890. CHICK *v.* MCGRADY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT RETREAT, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5895. DARANDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–5896. CAVENDER *v.* HANEY, WARDEN, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5898. DAVIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 451 Fed. Appx. 876.

No. 13–5899. BRYANT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 673.

No. 13–5900. BRYANT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 161.

No. 13–5901. BLECKLER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 495.

No. 13–5903. HOLT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5905. DAVIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 547.

No. 13–5906. HOGGARD *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 772.

No. 13–5908. FERRI *v.* KANE, ATTORNEY GENERAL OF PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 513 Fed. Appx. 124.

No. 13–5910. HARRIS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5915. HINDS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–5921. MUELLER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–5922. MCCLOUD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–5923. PALACIOS RENGIFO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 41.

No. 13–5924. TURNAGE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–5928. MCCORMICK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 411.

No. 13–5929. MCDOWELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 713 F. 3d 571.

No. 13–5931. MCDONALD *v.* VILLAGE OF PALATINE, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 286.

No. 13–5932. Oliver *v.* McGrady, Superintendent, State Correctional Institution at Retreat, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5934. Thompson *v.* Southers, Superintendent, State Correctional Institution at Camp Hill, et al. C. A. 3d Cir. Certiorari denied.

No. 13–5935. Alford *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 495.

No. 13–5936. Butler *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 173.

No. 13–5938. Bell *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 956.

No. 13–5939. Smith *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 294.

No. 13–5941. Santiago-Rodriguez *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 129.

No. 13–5946. Huff et al. *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 451.

No. 13–5951. Ray *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 585.

No. 13–5953. Christian *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 13–5955. Clark *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–5956. Taken Alive *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 609.

No. 13–5957. Ortega, aka Alcaraz *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 541.

No. 13–5960. Daveng Wee *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 513 Fed. Appx. 28.

No. 13–5961. Turner *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 763.

No. 13–5962. WATSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 116 So. 3d 1268.

No. 13–5963. WALKER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 687.

No. 13–5964. MERCADO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 574.

No. 13–5971. SAMUELS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5974. ROEBUCK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 867.

No. 13–5975. REYES-GUZMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 317.

No. 13–5976. SLAGG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–5979. PINEDA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 863.

No. 13–5981. ROBERTS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–5985. GHOSTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 468.

No. 13–5986. HENDERSON *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2013 IL 114040, 989 N. E. 2d 192.

No. 13–5988. COLE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 638.

No. 13–5989. COREY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 759.

No. 13–5993. MARTIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 433.

No. 13–6000. GABRIEL AGUILAR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 541.

No. 13–6001. RAMOS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 301.

No. 13–6003. LANGLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 903.

No. 13–6008. JACKSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 457.

No. 13–6009. JOHNSON *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2012 IL App (4th) 090893–U.

No. 13–6014. DANIELS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 399.

No. 13–6015. DEVAUGHN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 319.

No. 13–6016. KATHERINE D. *v.* KATZ, COMMISSIONER, CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES. App. Ct. Conn. Certiorari denied. Reported below: 141 Conn. App. 474, 62 A. 3d 635.

No. 13–6018. DUDLEY, AKA BROWN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 378.

No. 13–6024. MACK *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6026. NICHOLS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 344.

No. 13–6028. BOYD *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6030. HARRIMAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 782.

No. 13–6035. ROSAS *v.* DONAT, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6036. ROACH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 610.

No. 13–6037. SMITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6042. CROSBY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 771.

No. 13–6048. HUNT *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 630.

No. 13–6051. GARCON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6055. PETERSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 711 F. 3d 770.

No. 13–6059. TAYLOR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6062. WINKELMAN ET AL. *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 52.

No. 13–6065. AKINLADE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 529.

No. 13–6066. ALEXANDER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 448.

No. 13–6067. ANDARADE-VALLE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 252.

No. 13–6076. TASBY *v.* OBENLAND, SUPERINTENDENT, CLALLAM BAY CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 680.

No. 13–6077. OCHOA-TORRES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 583.

No. 13–6079. BAIRD *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6080. BARRINGTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 206.

No. 13–6081. SANCHEZ-AGUILAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 719 F. 3d 1108.

No. 13–6082. SAYAMONTRY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 442.

No. 13–6084. RIGGIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 381.

No. 13–6085. BOND *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–6087. HIATT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 665.

No. 13–6095. DYKE ET AL. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 718 F. 3d 1282.

No. 13–6098. SCHOPPE *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 10th Cir. Certiorari denied. Reported below: 711 F. 3d 1190.

No. 13–6100. BLACKMON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6101. JOHNSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 250.

No. 13–6103. NOEL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 284.

No. 13–6107. LEWIS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 562.

No. 13–6108. LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 12–789. PALMQUIST *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. 1st Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 689 F. 3d 66.

No. 12–1218. FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. *v.* JOHNSON. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 705 F. 3d 117.

No. 12–1256. NEW MEXICO *v.* NAVARETTE. Sup. Ct. N. M. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 2013–NMSC–003, 294 P. 3d 435.

No. 12–1292. TECHNOLOGY PATENTS LLC *v.* T-MOBILE (UK) LTD. ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 700 F. 3d 482.

No. 12–1303. KARNATCHEVA ET AL. *v.* JPMORGAN CHASE BANK ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 704 F. 3d 545.

No. 12–1341. ABRAHAM, DBA PADDLE TRAMPS MANUFACTURING CO. *v.* ALPHA CHI OMEGA ET AL. C. A. 5th Cir. Motion of Law Professors for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 708 F. 3d 614.

No. 12–1342. SAHID *v.* CADLEROCK JOINT VENTURE, L. P. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Motion of Philip A. Byler for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 94 App. Div. 3d 580, 942 N. Y. S. 2d 497.

No. 12–1347. CINTAS CORP. *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION. C. A. 6th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 699 F. 3d 884.

No. 12–1362. WINEMAN ET AL. *v.* CITY OF SANTA MARIA, CALIFORNIA, ET AL. Ct. App. Cal., 6th App. Dist. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 211 Cal. App. 4th 266, 149 Cal. Rptr. 3d 491.

No. 12–1366. HO MYUNG MOOLSAN CO., LTD., ET AL. *v.* MANITOU MINERAL WATER, INC. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 501 Fed. Appx. 85.

No. 12–1382. CHAU KIEU NGUYEN, AS REPRESENTATIVE OF DUNG KIM NGUYEN, AND THE ESTATE OF LUONG TRUNG NGUYEN *v.* JPMORGAN CHASE BANK, N. A. C. A. 11th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 709 F. 3d 1342.

No. 12–1396. AMERICAN ELECTRIC POWER SERVICE CORP. ET AL. *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 708 F. 3d 183.

No. 12–1406. JONES, AS ADMINISTRATRIX OF THE ESTATE OF JONES AND AS GUARDIAN AD LITEM FOR JONES *v.* TOWN OF EAST HAVEN, CONNECTICUT. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 691 F. 3d 72.

No. 12–1441. DICKSON *v.* PUBLIC SERVICE COMPANY OF OKLAHOMA. C. A. 10th Cir. Certiorari denied. JUSTICE ALITO took

no part in the consideration or decision of this petition. Reported below: 511 Fed. Appx. 753.

No. 12–1456. JONES *v.* DEPARTMENT OF THE TREASURY ET AL. C. A. D. C. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 12–1457. AMAG PHARMACEUTICALS, INC., ET AL. *v.* SILVERSTRAND INVESTMENTS ET AL. C. A. 1st Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 707 F. 3d 95.

No. 12–1461. HERRERA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 704 F. 3d 480.

No. 12–1465. INTERFACE KANNER, LLC *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 11th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 704 F. 3d 927.

No. 12–1481. PRIESTER ET UX. *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 708 F. 3d 667.

No. 12–1494. REPUBLIC OF ARGENTINA *v.* NML CAPITAL, LTD., ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 699 F. 3d 246.

No. 12–1495. CHURCH OF SCIENTOLOGY INTERNATIONAL *v.* DECRESCENZO ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Motions of The Rutherford Institute and National Council of Churches of Christ et al. for leave to file briefs as *amici curiae* granted. Certiorari denied.

No. 12–8364. FULKS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 683 F. 3d 512.

No. 12–8891. STEWART *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 686 F. 3d 156.

No. 12–9125. CAIN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 671 F. 3d 271.

No. 12–9748. DELEON *v.* UNITED STATES. C. A. 1st Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* granted, and the order entered June 3, 2013, [569 U. S. 1016,] is vacated. Certiorari denied. Reported below: 704 F. 3d 189.

No. 12–10181. PERRY *v.* KEY AUTO RECOVERY ET AL. Ct. App. Cal., 2d App. Dist. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 12–10211. ANDERSEN *v.* YOUNG AND RUBICAM ADVERTISING. C. A. 2d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 487 Fed. Appx. 675.

No. 12–10317. NEAL *v.* DUKE ENERGY ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE BREYER and JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 509 Fed. Appx. 280.

No. 12–10528. STEELE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10531. CABAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 510 Fed. Appx. 291.

No. 12–10571. MARCUS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR and JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 517 Fed. Appx. 8.

No. 12–10578. RODRIGUEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 503 Fed. Appx. 72.

No. 12–10584. ASANTE ET AL. *v.* JPMORGAN CHASE & CO. ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. JUSTICE ALITO took no part in the consideration or deci-

sion of this petition. Reported below: 93 App. Div. 3d 429, 940 N. Y. S. 2d 44.

No. 12–10671. BROWN *v.* FERRARA ET AL. C. A. 1st Cir. Certiorari before judgment denied.

No. 12–10714. MATHERLY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 514 Fed. Appx. 287.

No. 12–10737. REEDER *v.* ENGLISH, WARDEN. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10753. ALEXANDER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 490 Fed. Appx. 575.

No. 12–10794. LEWIS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 505 Fed. Appx. 1.

No. 12–10812. DEGLACE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 501 Fed. Appx. 949.

No. 12–10843. KEARNEY *v.* GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 12–10844. JONES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 12–10953. KAPORDELIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10974. FIELDS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10981. HUTCHINSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10992. FEUER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–35. LANDOLFI *v.* CITY OF MELBOURNE, FLORIDA. C. A. 11th Cir. Motion of Reserve Officers Association for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 515 Fed. Appx. 832.

No. 13–63. BRENNAN ET AL. *v.* CONCORD EFS, INC., ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER and JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 686 F. 3d 741.

No. 13–85. PATTERSON, WARDEN, ET AL. *v.* ADKINS. C. A. 11th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 710 F. 3d 1241.

No. 13–89. RUBIN ET AL. *v.* CITY OF LANCASTER, CALIFORNIA. C. A. 9th Cir. Certiorari before judgment denied.

No. 13–103. HARTMAN ET AL. *v.* MOORE. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE and JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 704 F. 3d 1003.

No. 13–161. PUBLIC PATENT FOUNDATION INC. *v.* MCNEIL-PPC, INC., ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–202. JAMES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 513 Fed. Appx. 232.

No. 13–234. WHITE *v.* DEPARTMENT OF DEFENSE. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–257. HALL, AKA VALERIANO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the

consideration or decision of this petition. Reported below: 528 Fed. Appx. 377.

No. 13–5098. PISKANIN *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CRESSON, ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5136. MORRIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5139. ANTONIO CORDERO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5229. MUHAMMAD, AKA COOPER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5260. SMITH *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 709 F. 3d 1114.

No. 13–5268. GRIFFIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 520 Fed. Appx. 858.

No. 13–5318. HARRIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 521 Fed. Appx. 732.

No. 13–5324. AGUIAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–5356. HUTCHINSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5359. BRYANT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 520 Fed. Appx. 226.

No. 13–5531. HALL *v.* RIOS, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5576. WILSON *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 13–5672. PATTERSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 525 Fed. Appx. 681.

No. 13–5692. FERNANDO VILLALON *v.* IMMIGRATION AND NATURALIZATION SERVICE ET AL. C. A. 5th Cir. Certiorari before judgment denied.

No. 13–5708. PAYNE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5713. JOHNSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5722. BLOOM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–5777. WATTS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 507 Fed. Appx. 292.

No. 13–5785. KILBRIDE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5942. SESSA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 711 F. 3d 316.

No. 13–5959. CIRINEO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 523 Fed. Appx. 70.

No. 13–6041. DeJesus *v.* United States. C. A. 2d Cir. Certiorari denied. Justice Sotomayor took no part in the consideration or decision of this petition. Reported below: 509 Fed. Appx. 12.

No. 13–6045. Cochran *v.* United States. C. A. 7th Cir. Certiorari denied. Justice Kagan took no part in the consideration or decision of this petition.

No. 13–6050. Green *v.* United States. C. A. 7th Cir. Certiorari denied. Justice Kagan took no part in the consideration or decision of this petition.

No. 13–6052. Givens *v.* United States. C. A. 2d Cir. Certiorari denied. Justice Sotomayor took no part in the consideration or decision of this petition.

No. 13–6091. Saavedra *v.* Scribner, Warden, et al. C. A. 9th Cir. Certiorari denied. Justice Breyer took no part in the consideration or decision of this petition. Reported below: 482 Fed. Appx. 268.

Rehearing Denied

No. 12–9523. Gresham *v.* Capello, Warden, 569 U. S. 1020;
No. 12–9840. Jones *v.* Toll Brothers, 570 U. S. 921;
No. 12–10059. Jennings *v.* Hagel, Secretary of Defense, 570 U. S. 922;
No. 12–10177. Adams *v.* Smith, Warden, 570 U. S. 923; and
No. 12–10419. Evans *v.* United States, 570 U. S. 925. Petitions for rehearing denied.

No. 12–7148. Budha *v.* United States, 568 U. S. 1164;
No. 12–8422. Stacker *v.* Norman, Warden, 569 U. S. 906; and
No. 12–10179. Campbell *v.* United States, 569 U. S. 1037. Motions for leave to file petitions for rehearing denied.

October 9, 2013

Dismissal Under Rule 46

No. 12–1502. Asia Pulp & Paper Co., Ltd., et al. *v.* JPMorgan Chase Bank, N. A., Successor in Interest to the First National Bank of Chicago. C. A. 7th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 707 F. 3d 853.

Miscellaneous Order

No. 13–6790 (13A362). IN RE SCHAD. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 13–6756 (13A350). SCHAD *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 732 F. 3d 963.

No. 13–6780 (13A352). SCHAD *v.* BREWER, GOVERNOR OF ARIZONA, ET AL. C. A. 9th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 732 F. 3d 946.

No. 13–6809 (13A368). YOWELL *v.* LIVINGSTON, 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 SCALIA, and by him referred to the Court, denied. Certiorari denied. Reported below: 732 F. 3d 465.

OCTOBER 15, 2013

Appeal Dismissed

No. 13–198. BROWN, GOVERNOR OF CALIFORNIA, ET AL. *v.* PLATA ET AL. Appeal from D. C. E. D. & D. C. N. D. Cal. dismissed for want of jurisdiction. See 28 U. S. C. § 1253. Reported below: 922 F. Supp. 2d 1004.

Certiorari Dismissed

No. 13–5626. HOWELL *v.* YOUNG, JUDGE, SUPERIOR COURT OF DELAWARE, KENT COUNTY, 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. Reported below: 530 Fed. Appx. 98.

No. 13–5746. RAIHALA *v.* CASS COUNTY DISTRICT JUDGE. 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. 13–5750. SANDERS *v.* MIDLAND FUNDING LLC 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. 13–5761. EVANS *v.* MARSHALL, JUDGE, COURT OF COMMON PLEAS OF OHIO, SCIOTO COUNTY. Sup. Ct. Ohio. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 134 Ohio St. 3d 1505, 2013-Ohio-1123, 984 N. E. 2d 1100.

No. 13–5784. KEMPPAINEN *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. 13–5871. SEWARD *v.* ROE, 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.

Miscellaneous Orders

No. 13A231. CHARLINE P. *v.* CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES. Sup. Ct. Conn. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. 13M34. ROCKEFELLER *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL.;

No. 13M35. BOYD *v.* UNITED STATES.;

No. 13M37. HENKE *v.* CITY OF NEWBURGH, NEW YORK; and

No. 13M39. PANZARELLA *v.* NAVAPAI COUNTY SHERRIFF'S OFFICE ET AL. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 13M36. ANDERS *v.* CELLCO PARTNERSHIP, DBA VERIZON WIRELESS. Motion to direct the Clerk to file petition for writ of

certiorari out of time denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 13M38. SIBLEY *v.* UNITED STATES ET AL. Motion to direct the Clerk to file petition for writ of certiorari denied.

No. 12–462. NORTHWEST, INC., ET AL. *v.* GINSBERG. C. A. 9th Cir. [Certiorari granted, 569 U. S. 993.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–696. TOWN OF GREECE, NEW YORK *v.* GALLOWAY ET AL. C. A. 2d Cir. [Certiorari granted, 569 U. S. 993.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–1128. MEDTRONIC, INC. *v.* MIROWSKI FAMILY VENTURES, LLC. C. A. Fed. Cir. [Certiorari granted, 569 U. S. 993.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted. Motion of Tessera Technologies, Inc., for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 13–5354. ESPINOSA *v.* BURGER KING CORP. C. A. 11th Cir.;

No. 13–5717. THOMAS *v.* ITT EDUCATIONAL SERVICES, INC. C. A. 5th Cir.; and

No. 13–6047. HUNTER *v.* KALMANSON ET AL. Sup. Ct. Va. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 5, 2013, 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. 13–370. IN RE PHELPS; and

No. 13–6348. IN RE TRIMUAR. Petitions for writs of habeas corpus denied.

No. 13–5690. IN RE MOORE. Petition for writ of mandamus denied.

No. 13–5765. IN RE COLBERT. Petition for writ of mandamus and/or prohibition denied.

Certiorari Granted

No. 12–1493. ABRAMSKI *v.* UNITED STATES. C. A. 4th Cir. Certiorari granted. Reported below: 706 F. 3d 307.

No. 12–1146. UTILITY AIR REGULATORY GROUP *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1248. AMERICAN CHEMISTRY COUNCIL ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1254. ENERGY-INTENSIVE MANUFACTURERS WORKING GROUP ON GREENHOUSE GAS REGULATION ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1268. SOUTHEASTERN LEGAL FOUNDATION, INC., ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1269. TEXAS ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.; and

No. 12–1272. CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. D. C. Cir. Certiorari granted limited to the following question: "Whether EPA permissibly determined that its regulation of greenhouse gas emissions from new motor vehicles triggered permitting requirements under the Clean Air Act for stationary sources that emit greenhouse gases." Cases consolidated, and a total of one hour is allotted for oral argument. Reported below: 684 F. 3d 102.

Certiorari Denied

No. 12–1086. SONY COMPUTER ENTERTAINMENT AMERICA LLC ET AL. *v.* 1ST MEDIA, LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 694 F. 3d 1367.

No. 12–1152. VIRGINIA ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY;

No. 12–1153. PACIFIC LEGAL FOUNDATION *v.* ENVIRONMENTAL PROTECTION AGENCY; and

No. 12–1253. COALITION FOR RESPONSIBLE REGULATION, INC., ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 684 F. 3d 102.

No. 12–1368. FISHER *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 219 N. C. App. 498, 725 S. E. 2d 40.

No. 12–1378. FOX GROUP, INC. *v.* CREE, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 700 F. 3d 1300.

No. 12–1433. DAVIDSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 48 A. 3d 194.

No. 12–1503. GEAC ENTERPRISE SOLUTIONS, INC., ET AL. *v.* CORNUS CORP. Ct. App. Ore. Certiorari denied. Reported below: 252 Ore. App. 595, 289 P. 3d 267.

No. 12–9965. GREENE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 704 F. 3d 298.

No. 12–10116. DEMMITT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 706 F. 3d 665.

No. 12–10251. SEPULVADO *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 707 F. 3d 550.

No. 12–10371. FLOCKER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 637.

No. 12–10529. SWIMS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 520.

No. 12–10579. WORTHY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6. UNITED STATES SUGAR CORP. *v.* FRIENDS OF THE EVERGLADES ET AL.;

No. 13–10. ENVIRONMENTAL PROTECTION AGENCY ET AL. *v.* FRIENDS OF THE EVERGLADES ET AL.; and

No. 13–23. SOUTH FLORIDA WATER MANAGEMENT DISTRICT ET AL. *v.* FRIENDS OF THE EVERGLADES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 699 F. 3d 1280.

No. 13–34. KNAPPE, EXECUTOR OF THE ESTATE OF PATTEE, DECEASED *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 713 F. 3d 1164.

No. 13–38. 677 NEW LOUDON CORP., DBA NITE MOVES *v.* NEW YORK TAX APPEALS TRIBUNAL ET AL. Ct. App. N. Y. Certiorari denied. Reported below: 19 N. Y. 3d 1058, 979 N. E. 2d 1121.

No. 13–42. WOOLLARD ET AL. *v.* GALLAGHER ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 712 F. 3d 865.

No. 13–53. BUFFIN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 441.

No. 13–91. CASTILLE ET AL. *v.* ST. JOSEPH ABBEY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 712 F. 3d 215.

No. 13–133. Rondigo, L. L. C., et al. *v.* Township of Richmond, Michigan, et al. C. A. 6th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 283.

No. 13–134. Stern *v.* Weinstein et al. C. A. 9th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 701.

No. 13–140. MoGas Pipeline LLC et al. *v.* Public Service Commission of Missouri et al. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 395 S. W. 3d 562.

No. 13–148. Shumin Zhang et vir *v.* Jianong Guo et al. Ct. App. Cal., 2d App. Dist., Div. 4. Certiorari denied.

No. 13–149. Davey et ux. *v.* Windermere Services Co. et al. Ct. App. Wash. Certiorari denied. Reported below: 172 Wash. App. 1011.

No. 13–153. American Dental Partners of Michigan, LLC, et al. *v.* Dental Associates, P. C., dba Redwood Dental Group. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 349.

No. 13–162. Montano et al. *v.* Wilson. C. A. 10th Cir. Certiorari denied. Reported below: 715 F. 3d 847.

No. 13–164. Araya *v.* Keleta. Ct. App. D. C. Certiorari denied. Reported below: 65 A. 3d 40.

No. 13–166. Hanford-Southport, LLC *v.* City of San Antonio, Texas. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 387 S. W. 3d 849.

No. 13–167. Lawlor *v.* Virginia. Sup. Ct. Va. Certiorari denied. Reported below: 285 Va. 187, 738 S. E. 2d 847.

No. 13–170. Lahrichi et al. *v.* Frank et al. Ct. App. Wash. Certiorari denied. Reported below: 171 Wash. App. 1005.

No. 13–171. Lunts et vir *v.* Rochester City School District et al. C. A. 2d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 11.

No. 13–172. Lieblich et al. *v.* Nahzi, fka Nazi. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 99 App. Div. 3d 639, 952 N. Y. S. 2d 883.

No. 13–176. Cox *v.* Anne Arundel County, Maryland, et al. C. A. 4th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 244.

No. 13–181. Gaind *v.* Garcia Cordero et al. C. A. 2d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 68.

No. 13–189. Voneida *v.* Stoehr et al. C. A. 3d Cir. Certiorari denied. Reported below: 512 Fed. Appx. 219.

No. 13–192. Matthews *v.* Educational Credit Management Corp. C. A. 6th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 556.

No. 13–194. Caldera *v.* Insurance Company of Pennsylvania. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 861.

No. 13–195. Dearborn Lodging, Inc., dba Metro Inn *v.* City of Dearborn, Michigan. C. A. 6th Cir. Certiorari denied.

No. 13–196. Spurlock et al. *v.* Fox et al. C. A. 6th Cir. Certiorari denied. Reported below: 716 F. 3d 383.

No. 13–197. Lin *v.* Chicago Title Insurance Co. C. A. 9th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 655.

No. 13–201. Mariotti *v.* Mariotti Building Products, Inc. C. A. 3d Cir. Certiorari denied. Reported below: 714 F. 3d 761.

No. 13–203. American Red Cross, Heart of America Blood Services Region *v.* Harrell, Regional Director of Subregion 33 of the National Labor Relations Board. C. A. 7th Cir. Certiorari denied. Reported below: 714 F. 3d 553.

No. 13–207. San Luis Unit Food Producers et al. *v.* United States et al. C. A. 9th Cir. Certiorari denied. Reported below: 709 F. 3d 798.

No. 13–211. Ekmark *v.* Matthews et al. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 62.

No. 13–227. Soni Law Firm *v.* Scottsdale Insurance Co. et al. C. A. 9th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 576.

No. 13–228. STAKER ET UX. *v.* JUBBER, CHAPTER 7 TRUSTEE, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 811.

No. 13–229. YADAV *v.* BROOKHAVEN NATIONAL LABORATORY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 487 Fed. Appx. 671.

No. 13–232. SMITH *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 395.

No. 13–235. CLYCE *v.* HUNT COUNTY, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 319.

No. 13–245. ASENCIO *v.* WELLS FARGO BANK, N. A. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 798.

No. 13–258. GRANT, KONVALINKA & HARRISON P. C. *v.* STILL ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 716 F. 3d 404.

No. 13–279. KOZLOWSKI *v.* SMITH, SUPERINTENDENT, MID-STATE CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 511 Fed. Appx. 21.

No. 13–280. O'DONNELL *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. D. C. Cir. Certiorari denied. Reported below: 489 Fed. Appx. 469.

No. 13–282. CIARAMITARO *v.* UNUM LIFE INSURANCE COMPANY OF AMERICA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 430.

No. 13–283. DUBEA *v.* SCHOOL BOARD OF AVOYELLES PARISH. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 357.

No. 13–284. DURAN ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 620 Fed. Appx. 687.

No. 13–285. BEASLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 204.

No. 13–300. HALMOS ET AL. *v.* INSURANCE COMPANY OF NORTH AMERICA. C. A. 11th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 851.

No. 13–305. LACOGNATA ET VIR *v.* HOSPIRA, INC. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 866.

No. 13–5276. MCMAHON *v.* FISHER ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5399. URIBE-QUINTERO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 299.

No. 13–5571. MADURA EX UX. *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 13–5575. WETZEL *v.* TANNER ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–5578. MORITZ *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 277.

No. 13–5589. ADAMS *v.* PALMER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5590. ANKENEY *v.* ARCHULETA, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 650.

No. 13–5593. MCDANIELS *v.* DREW, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 269.

No. 13–5598. PARKER *v.* CLARK, SUPERIOR COURT OF GEORGIA, GWINNETT COUNTY. Sup. Ct. Ga. Certiorari denied. Reported below: 292 Ga. XXII, 742 S. E. 2d 479.

No. 13–5599. YOUNG *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 13–5609. EMRIT ET AL. *v.* CHEAP-O-AIR ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 347.

No. 13–5610. DESPIO *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–5614. AVINGTON *v.* ARIZONA. Super. Ct. Ariz., County of Maricopa. Certiorari denied.

No. 13–5615. Bergerud *v.* Colorado. Ct. App. Colo. Certiorari denied.

No. 13–5617. Washington *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 352.

No. 13–5627. Harris *v.* Messitte, Judge, United States District Court for the District of Maryland, et al. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 241.

No. 13–5630. Gilding *v.* Crews, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 13–5631. Hug *v.* Georgia. Ct. App. Ga. Certiorari denied.

No. 13–5632. Hutton *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 13–5633. Pavon *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–5634. Rodriguez *v.* Florida. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 126 So. 3d 363.

No. 13–5635. Smith *v.* Gottlob. C. A. 2d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 41.

No. 13–5637. Scott *v.* Clarke, Director, Virginia Department of Corrections. Sup. Ct. Va. Certiorari denied.

No. 13–5641. Pinkney *v.* American Medical Response, Inc., et al. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 502.

No. 13–5650. Moore *v.* Texas. Ct. App. Tex., 4th Dist. Certiorari denied.

No. 13–5656. Frank *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 414.

No. 13–5657. Hegewald *v.* Washington. Ct. App. Wash. Certiorari denied.

No. 13–5664. ZOCHLINSKI *v.* REGENTS OF THE UNIVERSITY OF CALIFORNIA ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 13–5665. WHALEN *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied.

No. 13–5666. TUNOA *v.* THOMAS ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5669. MERRITT *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 118 So. 3d 221.

No. 13–5671. MOSS *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 113 So. 3d 9.

No. 13–5684. JOHNSON *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 712 F. 3d 227.

No. 13–5686. ANDERSON ET AL. *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 104 So. 3d 1089.

No. 13–5687. ATTA BEY *v.* GEORGIA. C. A. 11th Cir. Certiorari denied.

No. 13–5693. THOMPSON *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–5696. CORBIN *v.* JOHNSON, JUDGE, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 200.

No. 13–5704. MCKENZIE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 907.

No. 13–5706. BROWN *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–5709. NERO *v.* MARYLAND. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 89.

No. 13–5718. TOPPING *v.* DEPARTMENT OF EDUCATION ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 816.

No. 13–5727. TODD ET AL. *v.* ROTHSCHILD, AS CHAPTER 11 TRUSTEE OF FORT DEFIANCE HOUSING CORP., INC. C. A. 9th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 181.

No. 13–5729. MCFADDEN *v.* GAINEY. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 176.

No. 13–5731. DUMEY *v.* KISSIMMEE UTILITY AUTHORITY. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 937.

No. 13–5734. SHINE *v.* TILLMAN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–5735. RAVEN *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 13–5738. YOUNGBLOOD *v.* LAMARQUE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5739. MIKKELSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 104 So. 3d 1085.

No. 13–5742. TRUDEAU *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1120, 984 N. E. 2d 890.

No. 13–5744. ROSENTHAL *v.* O'BRIEN, SUPERINTENDENT, OLD COLONY CORRECTIONAL CENTER. C. A. 1st Cir. Certiorari denied. Reported below: 713 F. 3d 676.

No. 13–5745. RODRIGUEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–5749. PETKOVIC *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2012-Ohio-4050.

No. 13–5754. ALEXANDER *v.* BAYVIEW LOAN SERVICING, LLC. C. A. 8th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 589.

No. 13–5758. TOLSMA *v.* KING COUNTY, WASHINGTON, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 178.

No. 13–5759. SIMBAQUEBA *v.* DEPARTMENT OF DEFENSE. C. A. 6th Cir. Certiorari denied.

No. 13–5763. RENEE D. *v.* RACINE COUNTY DEPARTMENT OF HUMAN SERVICES. Ct. App. Wis. Certiorari denied. Reported below: 2013 WI App 41, 346 Wis. 2d 733, 828 N. W. 2d 594.

No. 13–5767. SHAUN A. W. *v.* JORA D. B. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1127.

No. 13–5769. FULMER *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 401 S. W. 3d 305.

No. 13–5773. BURFEINDT *v.* POSTUPACK ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 509 Fed. Appx. 65.

No. 13–5780. SNIDER-CARPENTER ET AL. *v.* CITY OF DIXON, MISSOURI, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 527.

No. 13–5783. KEATON *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5787. MACKEY *v.* BRUNSMAN, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 357.

No. 13–5790. MCDONALD *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 117 So. 3d 412.

No. 13–5793. NOLL *v.* PETERSON ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5795. BAEZ *v.* RODEN, SUPERINTENDENT, MASSACHUSETTS CORRECTIONAL INSTITUTION AT NORFOLK. C. A. 1st Cir. Certiorari denied.

No. 13–5796. HILL *v.* FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 56.

No. 13–5814. MAYFIELD *v.* COMMISSION FOR LAWYER DISCIPLINE OF THE STATE BAR OF TEXAS. Sup. Ct. Tex. Certiorari denied.

No. 13–5815. KELLY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 180.

No. 13–5831. SOWELL *v.* SOUTH CAROLINA. Ct. Common Pleas of Richland County, S. C. Certiorari denied.

No. 13–5846. KERNS *v.* KLEM ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5851. GUTIERREZ *v.* SMITH, SUPERINTENDENT, SHAWANGUNK CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 702 F. 3d 103.

No. 13–5870. ROGERS *v.* GLEBE, SUPERINTENDENT, STAFFORD CREEK CORRECTIONS CENTER. C. A. 9th Cir. Certiorari denied.

No. 13–5879. JOSEPHS, AKA GIBBS *v.* ARTUS, SUPERINTENDENT, WENDE CORRECTIONAL FACILITY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5907. GRUNAU *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5914. GENTILE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 116 So. 3d 382.

No. 13–5917. CROCKETT *v.* KELLY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5919. DEGROOT *v.* TERRITORY OF THE VIRGIN ISLANDS. Sup. Ct. V. I. Certiorari denied.

No. 13–5925. M. I., A MINOR *v.* ILLINOIS. Sup. Ct. Ill. Certiorari denied. Reported below: 2013 IL 113776, 989 N. E. 2d 173.

No. 13–5940. STEWARD *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied. Reported below: 397 S. W. 3d 881.

No. 13–5944. LOUCKS *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5948. VENTURA *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 113 So. 3d 11.

No. 13–5978. ISIDRO *v.* SUPERIOR COURT OF CALIFORNIA, SANTA CLARA COUNTY, ET AL. Ct. App. Cal., 6th App. Dist. Certiorari denied.

No. 13–5982. PETROSSIAN *v.* COLLINS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 861.

No. 13–5990. CODRINGTON *v.* TERRITORY OF THE VIRGIN ISLANDS. C. A. 3d Cir. Certiorari denied.

No. 13–5995. LITTLEJOHN *v.* RILEY, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 448.

No. 13–5999. BILLU *v.* TERRITORY OF THE VIRGIN ISLANDS. C. A. 3d Cir. Certiorari denied.

No. 13–6010. CARROLL *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 281.

No. 13–6011. CHAVARRIAGA *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–6017. CLEMONS *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6019. EVANS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–6031. O'KEEFE *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1142.

No. 13–6033. SHEPTOCK *v.* FENTY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 707 F. 3d 326.

No. 13–6057. BARBARIS *v.* TAYLOR, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 183.

No. 13–6063. WILLIAMS *v.* COLEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FAYETTE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6069. CLEVENGER *v.* CARTINHOUR ET AL. C. A. D. C. Cir. Certiorari denied.

No. 13–6070. MCBRIDE *v.* LARKIN, SUPERINTENDENT, EASTERN NEW YORK CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6072. NUGENT *v.* PIPPIN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–6074. BUSTILLO *v.* LAPPIN ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 551.

No. 13–6086. ANTONETTI *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6088. PAPADOPOULOS *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6104. OKEY *v.* STREBIG ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 212.

No. 13–6109. MOORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6112. BRADDY *v.* FOX, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 469.

No. 13–6114. THOMAS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 62 A. 3d 446.

No. 13–6115. CYRUS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 794.

No. 13–6122. BRANTLEY *v.* UNITED STATES; and
No. 13–6123. STITH *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 717 F. 3d 287.

No. 13–6124. LONG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 920.

No. 13–6125. WAY QUOE LONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–6126. PEREZ, AKA WALLACE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 319.

No. 13–6127. POYNTER *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 509 Fed. Appx. 2.

No. 13–6128. MCBEE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6129. FORD *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 206.

No. 13–6131. BEAMON *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2013 WI 47, 347 Wis. 2d 559, 830 N. W. 2d 681.

No. 13–6132. GRAHAM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 711 F. 3d 445.

No. 13–6133. ROCHA-MARTINEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 340.

No. 13–6134. DELANEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 717 F. 3d 553.

No. 13–6135. EDWARDS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 285.

No. 13–6136. DUQUE-HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 710 F. 3d 296.

No. 13–6137. HENDERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 381.

No. 13–6139. FABRICANT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 636.

No. 13–6140. DEFREITAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 718 F. 3d 115.

No. 13–6142. THEALL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 256.

No. 13–6143. TAVARES *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 705 F. 3d 4.

No. 13–6144. THOMPSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 68 A. 3d 729.

No. 13–6148. SCHMITZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 717 F. 3d 536.

No. 13–6150. DOSS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6151. MITCHELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6152. MENDEZ *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2013 IL App (4th) 110107, 985 N. E. 2d 1047.

No. 13–6155. MCDOWNEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 183.

No. 13–6156. MOORE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 764.

No. 13–6157. CUNNINGHAM *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 256.

No. 13–6161. KEYS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6163. REDD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 656.

No. 13–6165. ANCHRUM *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–6166. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 778.

No. 13–6167. COOPER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–6169. WHITTINGHAM *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6170. WHATLEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 719 F. 3d 1206.

No. 13–6171. WOODS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 248.

No. 13–6172. WHITEHEAD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 929.

No. 13–6174. WILLIAMS *v.* GLUNT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HOUTZDALE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6176. ORTEGA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 626.

No. 13–6177. PARKER *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 63 A. 3d 819.

No. 13–6178. LOVELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6180. JAHNS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 483.

No. 13–6182. FLORES-ALEJO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 422.

No. 13–6183. HOCKADAY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6184. GENTILE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6185. HUDSPETH *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6188. FERNANDEZ-GRADIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 270.

No. 13–6189. GREENE *v.* DEPARTMENT OF JUSTICE. C. A. 6th Cir. Certiorari denied.

No. 13–6191. CALDWELL *v.* MAZURKIEWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENSBURG, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6192. BEVINS *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6195. AGUILAR-DIAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 372.

No. 13–6197. ESSIEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 291.

No. 13–6200. SOLANO-FELL, AKA LIGAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 508 Fed. Appx. 41.

No. 13–6201. JONES *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 109 So. 3d 1158.

No. 13–6202. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 312.

No. 13–6203. ROBLES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 303.

No. 13–6204. REDMOND *v.* HOGSTEN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6209. MCCALL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6213. JONES *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–6216. LEE *v.* COZZA-RHODES, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 630.

No. 13–6217. Shengyang Zhou *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 717 F. 3d 1139.

No. 13–6219. Dudley, aka Brown *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 378.

No. 13–6221. Coleman *v.* United States. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 184.

No. 13–6225. Son Nguyen *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 459.

No. 13–6229. Robinson *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 193.

No. 13–6230. Stephens *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 717 F. 3d 440.

No. 13–6231. Rhone *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 772.

No. 13–6236. Rios-Contreras *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 13–6240. Garcia-Delira *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 683.

No. 13–6241. Primus *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 932.

No. 13–6242. Mendiola *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 646.

No. 13–6247. Banks *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 606.

No. 13–6249. Forrest *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 257.

No. 13–6253. Zavala-Zavala *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 375.

No. 13–6258. Beumel *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 623.

No. 13–6261. Tovar *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 719 F. 3d 376.

No. 13–6262. Urbina-Abrego *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 256.

No. 13–6263. SANCHEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6264. SAKOMAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6265. EVANS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 641.

No. 13–6266. CAMACHO-ROSALES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 528 Fed. Appx. 215.

No. 13–6267. DAVIS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 714 F. 3d 474.

No. 13–6268. COLE *v.* FEATHER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 571.

No. 13–6270. CIBRIAN-QUINTERO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 644.

No. 13–6271. PONCE-ZUNIGA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 693.

No. 13–6272. MERIDYTH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 251.

No. 13–6274. NEAL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 794.

No. 13–6276. MCDOWELL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 755.

No. 13–6278. SANCHEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 488.

No. 13–6279. STAFFORD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 721 F. 3d 380.

No. 13–6282. PUTTICK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6287. COWAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 278.

No. 13–6288. NOSAIR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6294. VANDEMERWE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 745.

No. 13–6300. SAUSEDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 349.

No. 13–6313. AL SABAHI *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 719 F. 3d 305.

No. 13–6315. UMEH *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 57.

No. 13–6318. NEGRON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 692.

No. 13–6340. JOHNSON *v.* WARE, DIRECTOR, DISTRICT OF COLUMBIA COURT SERVICES AND OFFENDERS SUPERVISION AGENCY. C. A. D. C. Cir. Certiorari denied.

No. 13–6352. FORD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6355. BADRUDDOZA *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied.

No. 12–1279. ONONDAGA NATION *v.* NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 500 Fed. Appx. 87.

No. 12–1352. NOKIA INC. ET AL. *v.* INTERNATIONAL TRADE COMMISSION ET AL. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE and JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 690 F. 3d 1318.

No. 12–10633. WILLIAMSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 706 F. 3d 405.

No. 13–141. SPRINT COMMUNICATIONS COMPANY OF VIRGINIA, INC., ET AL. *v.* CENTRAL TELEPHONE COMPANY OF VIRGINIA ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 715 F. 3d 501.

No. 13–152. DIXIE-NET COMMUNICATIONS, INC. *v.* BELLSOUTH TELECOMMUNICATIONS, INC., DBA AT&T MISSISSIPPI, ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE ALITO took no part

in the consideration or decision of this petition. Reported below: 516 Fed. Appx. 407.

No. 13–5972. RINALDI *v.* ZICKEFOOSE, WARDEN. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 532 Fed. Appx. 64.

No. 13–6113. WINTERS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 716 F. 3d 1098.

No. 13–6186. HERRERA-GOMEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–6254. JAMES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6298. CONNOLLY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

OCTOBER 16, 2013

Dismissal Under Rule 46

No. 13–6158. MAHONEY *v.* UNITED STATES. C. A. 1st Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 717 F. 3d 257.

OCTOBER 21, 2013

Certiorari Dismissed

No. 13–5862. WHEELER *v.* DESAUTEL 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.

Miscellaneous Orders

No. D–2712. IN RE DISBARMENT OF BOYD. Disbarment entered. [For earlier order herein, see 568 U. S. 1226.]

No. D–2713. IN RE DISBARMENT OF FIELD. Disbarment entered. [For earlier order herein, see 570 U. S. 901.]

No. D–2714. In re Disbarment of Ohl. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2715. In re Disbarment of Casale. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2716. In re Disbarment of Liberace. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2727. In re Disbarment of Dickson. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2728. In re Disbarment of Claffey. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2729. In re Disbarment of Sigman. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2730. In re Disbarment of Alessandro. Disbarment entered. [For earlier order herein, see 570 U. S. 902.]

No. D–2732. In re Disbarment of Gold. Disbarment entered. [For earlier order herein, see 570 U. S. 903.]

No. 13M40. Maldonado *v.* Local 803 I. B. of T. Health and Welfare Fund. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 13M41. In re Sealed Case; and

No. 13M42. R. L. *v.* Pennsylvania. Motions for leave to file petitions for writs of certiorari under seal with redacted copies for the public record granted.

No. 13M43. Emerson *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division;

No. 13M44. Dunne *v.* Martinez, Warden; and

No. 13M45. Wallis *v.* USA Baby, Inc. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 137, Orig. Montana *v.* Wyoming et al. Motion of the Special Master for allowance of fees and disbursements granted, and the Special Master is awarded a total of $72,322.76 for the period May 19, 2011, through July 1, 2013, to be paid equally by Montana and Wyoming. [For earlier order herein, see, *e. g.*, 562 U. S. 1000.]

No. 12–3. LAWSON ET AL. *v.* FMR LLC ET AL. C. A. 1st Cir. [Certiorari granted, 569 U. S. 993.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–99. UNITE HERE LOCAL 355 *v.* MULHALL ET AL. C. A. 11th Cir. [Certiorari granted, 570 U. S. 915.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–1485. ARAB BANK, PLC *v.* LINDE ET AL. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 12–7822. FERNANDEZ *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 4. [Certiorari granted, 569 U. S. 993.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 13–5860. RODRIGUEZ *v.* TEXAS. Ct. App. Tex., 4th Dist.;
No. 13–5881. BACH *v.* MILWAUKEE COUNTY, WISCONSIN, ET AL. Ct. App. Wis.;
No. 13–5888. MISSUD *v.* NEVADA ET AL. C. A. 9th Cir.;
No. 13–6096. DASH *v.* CHASEN ET AL. C. A. 11th Cir.; and
No. 13–6422. CORNER *v.* PEREZ, SECRETARY OF LABOR. C. A. 7th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 12, 2013, 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. 13–6540. IN RE SHAHEED;
No. 13–6553. IN RE O'BRYAN;
No. 13–6610. IN RE CARRILLO;
No. 13–6637. IN RE FRANKS;
No. 13–6640. IN RE GINGLEN;
No. 13–6641. IN RE HILL; and
No. 13–6671. IN RE WOODWORTH. Petitions for writs of habeas corpus denied.

No. 13–6604. IN RE CRUZ. Petition for writ of habeas corpus denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6365. In re Liverman. Petition for writ of mandamus denied.

Certiorari Granted

No. 12–9012. Robers *v.* United States. C. A. 7th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 698 F. 3d 937.

No. 12–10882. Hall *v.* Florida. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 109 So. 3d 704.

Certiorari Denied

No. 12–1444. Mann *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 701 F. 3d 274.

No. 12–10466. McIntosh *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 704 F. 3d 894.

No. 12–10481. Lambert *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 709 F. 3d 413.

No. 12–10492. Shou Yu Chen *v.* Michigan. Ct. App. Mich. Certiorari denied.

No. 12–10855. Compian-Torres *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 712 F. 3d 203.

No. 12–10890. Martin *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 664 F. 3d 684.

No. 12–10958. Sellars *v.* North Carolina. Ct. App. N. C. Certiorari denied. Reported below: 222 N. C. App. 245, 730 S. E. 2d 208.

No. 13–87. McCray *v.* City of West Palm Beach, Florida. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 91 So. 3d 165.

No. 13–205. Cashman *v.* Warchol et al. C. A. 9th Cir. Certiorari denied.

No. 13–214. Novo Nordisk A/S *v.* Lukas-Werner et vir. Sup. Ct. Ore. Certiorari denied.

No. 13–216. PARR *v.* HULBERT ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 275.

No. 13–217. NACE *v.* LAWYER DISCIPLINARY BOARD. Sup. Ct. App. W. Va. Certiorari denied. Reported below: 232 W. Va. 661, 753 S. E. 2d 618.

No. 13–218. JOHNSON, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* WEST PUBLISHING CORP. C. A. 8th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 531.

No. 13–219. STRINGER *v.* WOOLSEY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 495 Fed. Appx. 838.

No. 13–242. HOLLANDER *v.* DAYSON, JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, ET AL. Ct. App. D. C. Certiorari denied.

No. 13–243. HARRISON *v.* FOREST, PROBATION AGENT, MICHIGAN DEPARTMENT OF CORRECTIONS. C. A. 6th Cir. Certiorari denied.

No. 13–248. BETHLEHEM AREA SCHOOL DISTRICT *v.* D. Z. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 521 Fed. Appx. 74.

No. 13–276. SWINFORD *v.* LISATH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–295. FARNIK ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION. C. A. 7th Cir. Certiorari denied. Reported below: 707 F. 3d 717.

No. 13–312. ROBINSON ET AL. *v.* SELECT PORTFOLIO SERVICING, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 309.

No. 13–321. PANN *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–331. BUFKIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 530.

No. 13–340. COMANS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–366. EVANS ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 9th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 645.

No. 13–372. KENNER ET AL. *v.* KELLY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 870.

No. 13–5064. WATKINS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 55 Cal. 4th 999, 290 P. 3d 364.

No. 13–5169. LAMPTON *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2012–1547 (La. 4/5/13), 110 So. 3d 557.

No. 13–5800. GILMORE *v.* NATIONAL MAIL HANDLERS UNION LOCAL 318 ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 784.

No. 13–5801. FEELEY *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–5807. GREELEY *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5809. DAVIS *v.* GULLECKSON ET AL. Ct. App. Mich. Certiorari denied.

No. 13–5810. JIMENEZ *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 325.

No. 13–5816. MARTINEZ *v.* MARTINEZ ET AL. C. A. 10th Cir. Certiorari denied.

No. 13–5822. MORRIS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 990.

No. 13–5824. JACKSON *v.* SALMON. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 182.

No. 13–5834. SULLIVAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–5835. COLEMAN *v.* CIRCUIT COURT OF VIRGINIA, ROCKINGHAM COUNTY. Sup. Ct. Va. Certiorari denied.

No. 13–5836. DANIEL *v.* TRANI, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 794.

No. 13–5845. MASTERSON *v.* HUERTA-GARCIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 499 Fed. Appx. 687.

No. 13–5849. CAMPBELL, AKA WALKER *v.* BUNTING, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–5852. HUGHES *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5854. BARREN *v.* COX, DIRECTOR, NEVADA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–5864. HIGHTOWER *v.* GODINEZ, DIRECTOR, ILLINOIS DEPARTMENT OF CORRECTIONS, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 294.

No. 13–5865. GARY *v.* FEDERAL TRADE COMMISSION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 526 Fed. Appx. 146.

No. 13–5867. SPENCER *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2012–2631 (La. 4/26/13), 112 So. 3d 842.

No. 13–5869. STRZELCZYK *v.* PENNSYLVANIA BOARD OF PROBATION AND PAROLE ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5883. CROMEANS *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2013 Ark. 273.

No. 13–5884. WILLIAMS *v.* CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 13–5885. ANTONIO TREVINO *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 13–5886. GABRIEL CORRO *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–5891. CLARK *v.* MCLAUGHLIN, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–5893. CORREA *v.* SUPREME COURT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 13–5894. ECHOLS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–5904. JONES *v.* MONTGOMERY, JUDGE, CRIMINAL COURT OF TENNESSEE, SULLIVAN COUNTY, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–5909. GOOSBY *v.* KHOSHDEL ET AL. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 13–5911. STONE *v.* BALLARD ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 688.

No. 13–5912. FIELDS *v.* TEXAS. Ct. App. Tex., 12th Dist. Certiorari denied.

No. 13–5913. HOLLEY *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 486 Fed. Appx. 371.

No. 13–5916. HAWORTH *v.* MONTGOMERY ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 577.

No. 13–5930. MITCHELL *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 1, 742 S. E. 2d 454.

No. 13–5937. BURDEN *v.* RAMOS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 342.

No. 13–5947. WIDMER *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Warren County. Certiorari denied. Reported below: 2013-Ohio-62.

No. 13–5949. TART *v.* KORNEGAY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 185.

No. 13–5952. BUTTE *v.* DIAZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6005. JONES *v.* LEE, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–6027. BARKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6083. STOCKAMP *v.* MISSOURI. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 398 S. W. 3d 490.

No. 13–6153. BEYAH *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 243.

No. 13–6181. DOWELL *v.* KENTUCKY. Ct. App. Ky. Certiorari denied.

No. 13–6194. BURGESS *v.* COSTCO WHOLESALE CORP. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 271.

No. 13–6199. MEJIA-PEREZ *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6224. PINKSTON *v.* FOSTER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 539.

No. 13–6237. CHANDLER *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6250. PRIDE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6259. VAN POOL *v.* JOHNSON, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 653.

No. 13–6260. APPLEFIELD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 793.

No. 13–6293. WHITE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 475 Fed. Appx. 963.

No. 13–6295. CLINE *v.* ZIEGLER, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 209.

No. 13–6303. AERY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 295.

No. 13–6312. BRACKETT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 306.

No. 13–6319. SMITH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 465.

No. 13–6322. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6323. HUBBARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 930.

No. 13–6324. GARCIA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 653.

No. 13–6325. GRASSO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 724 F. 3d 1077.

No. 13–6330. BAILEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 316.

No. 13–6332. WRIGHT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 328.

No. 13–6341. KEARNEY *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 216.

No. 13–6344. BOSTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 235.

No. 13–6345. BERRY *v.* PALMER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 336.

No. 13–6347. GWIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–6349. HERRELL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–6357. CARTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 357.

No. 13–6358. MCINTOSH *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 776.

No. 13–6360. MILLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 335.

No. 13–6361. MONTOYA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 716.

No. 13–6362. NOTTINGHAM *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 789.

No. 13–6370. REYES-CEJA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 712 F. 3d 1284.

No. 13–6372. DEAN *v.* UNITED STATES POSTAL SERVICE. C. A. 11th Cir. Certiorari denied.

No. 13–6373. Carlos Chavez *v.* Pugh, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–6374. Coffie *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 506.

No. 13–6376. Marks *v.* Biter, Warden, et al. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 374.

No. 13–6378. Mathers *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 771.

No. 13–6380. Strausbaugh *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 534 Fed. Appx. 175.

No. 13–6381. Ruiz *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 710 F. 3d 1077.

No. 13–6383. McClarin *v.* United States. C. A. 8th Cir. Certiorari denied.

No. 13–6386. Jenkins *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 483.

No. 13–6388. Martin *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 210.

No. 13–6389. Weaver *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 323.

No. 13–6393. Riley *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–6400. Williams *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 487.

No. 13–6405. Flemming *v.* California. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 13–6406. Goss *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 275.

No. 13–6407. Gleason *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 500.

No. 13–6408. Fuller *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 494.

No. 13–6412. WATTS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–6414. SOLOMON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6418. BRAY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6419. BOOMER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 778.

No. 13–6420. ANTAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6423. CROMWELL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 443.

No. 13–6424. VARGAS-TORRES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 317.

No. 13–6425. THROWER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6427. JAUREGUI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–6432. RICHARDSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 516 Fed. Appx. 2.

No. 13–6434. RIVAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 354.

No. 13–6438. NYAMAHARO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 479.

No. 13–6442. HUMPHREY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 493 Fed. Appx. 564.

No. 13–6448. TONEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6454. EIKELBOOM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 370.

No. 13–6455. DAVIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6456. KEELER *v.* FOX ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 250.

No. 13–6460. LONG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 669.

No. 13–6464. RALEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 246.

No. 13–6469. ESTRADA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 852.

No. 13–6470. RODRIGUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 222.

No. 13–6471. PATTERSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 575.

No. 13–6472. PORTER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 484.

No. 13–6475. CURRAN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 198.

No. 13–6488. FROST *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 484.

No. 13–6489. GRAHAM *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied.

No. 13–6493. CLARK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–6494. LUIS VAZQUEZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 179.

No. 13–6495. RAMOS-MURRILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 527.

No. 13–6497. BERRY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 717 F. 3d 823.

No. 13–6501. SUITT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 922.

No. 13–6504. JOHNSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 807.

No. 13–6505. LOPEZ-RUIZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 486.

No. 13–6506. LUNA-MORALES, AKA RICO-LUNA, AKA LUNA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 359.

No. 13–6507. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 716 F. 3d 851.

No. 13–6509. STREET *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 291.

No. 13–6511. OLALDE-VELASQUEZ, AKA OLALDE-VELAZQUEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 480.

No. 13–6512. MENDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 564.

No. 13–6517. STEWART *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 879.

No. 13–6520. PEDREGON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 605.

No. 13–6529. MOORE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 251.

No. 13–6530. NELSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 150.

No. 13–209. WAGNER *v.* BELLSOUTH TELECOMMUNICATIONS, INC., ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 520 Fed. Appx. 295.

No. 13–225. MITRANO *v.* JPMORGAN CHASE BANK, N. A. C. A. 4th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–328. SAGAR *v.* ORACLE CORP. C. A. 4th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 523 Fed. Appx. 999.

No. 13–350. PRINCE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 524 Fed. Appx. 377.

No. 13–5902. ATHERTON *v.* DISTRICT OF COLUMBIA OFFICE OF THE MAYOR ET AL. C. A. D. C. Cir. Certiorari denied. THE CHIEF JUSTICE and JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 706 F. 3d 512.

No. 13–6075. ALDRIDGE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6417. KOSACK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6502. NEELEY *v.* FEDERAL COMMUNICATIONS COMMISSION ET AL. C. A. 8th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition.

OCTOBER 23, 2013

Miscellaneous Order

No. 13–7023 (13A401). IN RE JONES. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 13–6994 (13A396). JONES *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Application for stay of execution of sentence of death, presented to JUSTICE KENNEDY, and by him referred to the Court, denied. Certiorari denied. Reported below: 733 F. 3d 825.

OCTOBER 29, 2013

Miscellaneous Order

No. 12–1146. UTILITY AIR REGULATORY GROUP *v.* ENVIRONMENTAL PROTECTION AGENCY;

No. 12–1248. AMERICAN CHEMISTRY COUNCIL ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1254. ENERGY-INTENSIVE MANUFACTURERS WORKING GROUP ON GREENHOUSE GAS REGULATION ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1268. Southeastern Legal Foundation, Inc., et al. *v.* Environmental Protection Agency et al.;

No. 12–1269. Texas et al. *v.* Environmental Protection Agency et al.; and

No. 12–1272. Chamber of Commerce of the United States of America et al. *v.* Environmental Protection Agency et al. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 951.] Upon consideration of the letter of October 22, 2013, from counsel for petitioners in No. 12–1248 on behalf of the parties, the briefing proposal set out in the letter is adopted with the exception that briefs for petitioners shall not exceed 45,000 words in aggregate. Briefs for respondents in support of petitioners shall not exceed 6,000 words each. Brief for the Solicitor General shall not exceed 15,000 words. Briefs for other respondents shall not exceed 10,000 words each. Reply briefs shall not exceed 18,000 words in aggregate.

November 4, 2013

Certiorari Granted—Reversed and Remanded. (See No. 12–1217, *ante*, p. 3.)

Certiorari Granted—Vacated and Remanded

No. 12–9916. Martin *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th 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 *McQuiggin* v. *Perkins*, 569 U. S. 383 (2013).

No. 13–6359. Olsson *v.* United States. C. A. 8th 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 *Descamps* v. *United States*, 570 U. S. 254 (2013). Reported below: 713 F. 3d 441.

Certiorari Dismissed

No. 12–1094. Cline et al. *v.* Oklahoma Coalition for Reproductive Justice et al. Sup. Ct. Okla. [Certiorari granted, 570 U. S. 930.] Writ of certiorari dismissed as improvidently granted.

No. 13–5977. SWAIN *v.* SMALL, 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. 13–6022. LYON *v.* TEXAS. Ct. App. Tex., 6th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–6089. RICHARDS *v.* YELICH, SUPERINTENDENT, BARE HILL CORRECTIONAL FACILITY, ET AL. 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. 13–6545. ROBINSON *v.* UNITED STATES. 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. 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. 13–6691. ALEXANDER *v.* UNITED STATES. 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition. Reported below: 544 Fed. Appx. 331.

No. 13–6717. JEFFUS *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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition. Reported below: 511 Fed. Appx. 254.

Miscellaneous Orders

No. D–2733. IN RE DISCIPLINE OF LISONI. Joseph Louis Lisoni, of Solvang, 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–2734. IN RE DISCIPLINE OF ANDRESEN. Kenneth P. Andresen, of Charlotte, 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–2735. IN RE DISCIPLINE OF LYNN. Kathy A. Lynn, of Mountlake Terrace, Wash., 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–2736. IN RE DISCIPLINE OF ROSE. Jacob Addington Rose, of West Palm Beach, 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–2737. IN RE DISCIPLINE OF LIPPMAN. Steven Neil Lippman, of Fort Lauderdale, 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–2738. IN RE DISCIPLINE OF BERG. Philip J. Berg, of Lafayette Hill, 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–2739. IN RE DISCIPLINE OF CARTER. Karl W. Carter, Jr., of Alexandria, Va., is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, re-

quiring him to show cause why he should not be disbarred from the practice of law in this Court.

No. D–2740. In re Discipline of Zouzoulas. Alexander Zouzoulas, of Winter Park, 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–2741. In re Discipline of Martin. Kenneth Allen Martin, of McLean, Va., 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–2742. In re Discipline of Makowski. Raymond Edmund Makowski, of Jacksonville, 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. 13M46. Jones *v.* United States. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 13M47. Melly *v.* Singer et al.;

No. 13M48. Toney *v.* LaSalle Bank N. A. et al.;

No. 13M49. Singleton *v.* Sunshine State Insurance Co.;

No. 13M50. Jones *v.* Giarrusso, Judge, District Court of Louisiana, Orleans Parish, et al.; and

No. 13M51. Bagby *v.* Jones, Director, Oklahoma Department of Corrections. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 12–9490. Prado Navarette et al. *v.* California. Ct. App. Cal., 1st App. Dist., Div. 5. [Certiorari granted, 570 U. S. 948.] Motion of petitioners for leave to proceed further herein *in forma pauperis* granted. Motion for appointment of counsel granted, and it is ordered that Paul Kleven, Esq., of Berkeley, Cal., is appointed to serve as counsel for petitioners in this case.

No. 13–6007. Lewis *v.* Navy Federal Credit Union. C. A. 4th Cir.;

No. 13–6046. Hunter *v.* Marion Superior Court et al. Sup. Ct. Ind.;

No. 13–6056. OWENS *v.* LOUISIANA. Sup. Ct. La.;
No. 13–6538. BURTTON *v.* UNITED STATES. C. A. 8th Cir.;
No. 13–6542. SNYDER *v.* UNITED STATES. C. A. 4th Cir.; and
No. 13–6608. DIAZ *v.* UNITED STATES. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until November 25, 2013, 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. 13–6822. IN RE CORDOVANO; and
No. 13–6842. IN RE DIVENTURA. Petitions for writs of habeas corpus denied.

No. 13–6145. IN RE SATTERFIELD;
No. 13–6146. IN RE POLK; and
No. 13–6667. IN RE COMEAUX. Petitions for writs of mandamus denied.

Certiorari Denied

No. 12–1403. MARTINEZ-CLAIB *v.* BUSINESS MEN'S ASSURANCE COMPANY OF AMERICA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 349 Fed. Appx. 522.

No. 12–1443. SCHRADER ET AL. *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 704 F. 3d 980.

No. 12–6956. EBRON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 683 F. 3d 105.

No. 12–9933. FRYE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 12–10695. CABECERA RODRIGUEZ, AKA CEBECERA, AKA CABECERA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 711 F. 3d 541.

No. 12–10954. QUIROGA-HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 698 F. 3d 227.

No. 13–108. MATKIN ET AL. *v.* BARETT, FORMER SHERIFF, FULTON COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 957.

No. 13–128. WALKER *v.* CHAPPELL, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 709 F. 3d 925.

No. 13–139. PCS NITROGEN, INC. *v.* ASHLEY II OF CHARLESTON, LLC, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 714 F. 3d 161.

No. 13–236. MCDOWELL *v.* TANKINETICS, INC., ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 613.

No. 13–247. NATIONAL UNION OF HEALTHCARE WORKERS ET AL. *v.* SERVICE EMPLOYEES INTERNATIONAL UNION ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 718 F. 3d 1036.

No. 13–250. VURIMINDI *v.* ACHEK ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 95.

No. 13–262. TRABER ET UX. *v.* MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 307.

No. 13–263. J. R. L., A CHILD *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 319 Ga. App. 666, 738 S. E. 2d 144.

No. 13–265. SLOAN *v.* SZALKIEWICZ ET AL. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 109 App. Div. 3d 423, 971 N. Y. S. 2d 208.

No. 13–267. DATTO *v.* HARRISON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 506 Fed. Appx. 160.

No. 13–268. EVANS *v.* DUKE ENERGY INDIANA, INC. Ct. App. Ind. Certiorari denied. Reported below: 977 N. E. 2d 477.

No. 13–273. RAPP ET AL. *v.* CITY OF EAST LANSING, MICHIGAN. Cir. Ct. Ingham County, Mich. Certiorari denied.

No. 13–286. ALLGOOD ET AL. *v.* WANSLEY ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 963.

No. 13–287. RAPOLD *v.* BAXTER INTERNATIONAL, INC. C. A. 7th Cir. Certiorari denied. Reported below: 718 F. 3d 602.

No. 13–292. CHARDIN *v.* DAVIS, POLICE COMMISSIONER OF BOSTON, ET AL. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 465 Mass. 314, 989 N. E. 2d 392.

No. 13–293. SISKOS *v.* BRITZ ET AL. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 865.

No. 13–310. EIGLES ET UX. *v.* STATE FARM AUTOMOBILE INSURANCE CO. ET AL. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 756 and 766.

No. 13–314. FLINT *v.* MARX ET AL. Sup. Ct. Ky. Certiorari denied.

No. 13–315. KEYS ET AL. *v.* WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY. C. A. D. C. Cir. Certiorari denied. Reported below: 523 Fed. Appx. 727.

No. 13–325. CHAVEZ *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 13–333. WORLEY ET AL. *v.* DETZNER, FLORIDA SECRETARY OF STATE, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 717 F. 3d 1238.

No. 13–335. HAMDEH ET AL. *v.* UNITED STATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 522 Fed. Appx. 167.

No. 13–336. FUMO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 513 Fed. Appx. 215.

No. 13–344. EHRMAN *v.* UNITED STATES ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 541 Fed. Appx. 1.

No. 13–353. YARCHESKI *v.* KEISER SCHOOL, INC., DBA KEISER UNIVERSITY. C. A. 11th Cir. Certiorari denied.

No. 13–357. DIAZ *v.* LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ET AL. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied.

No. 13–363. HOLM *v.* GONZALEZ, ACTING WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 529.

No. 13–368. PARKER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 716 F. 3d 999.

No. 13–382. ARNOLD *v.* CITY OF COLUMBUS, OHIO (Reported below: 515 Fed. Appx. 524); and FULLEN *v.* CITY OF COLUMBUS, OHIO (514 Fed. Appx. 601). C. A. 6th Cir. Certiorari denied.

No. 13–401. LONGAKER *v.* BOSTON SCIENTIFIC CORP. ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 715 F. 3d 658.

No. 13–403. LUSK *v.* UNITED STATES (Reported below: 72 M. J. 452); BLAZIER *v.* UNITED STATES (72 M. J. 413); DOLLAR

v. UNITED STATES (72 M. J. 413); BURTON *v.* UNITED STATES (72 M. J. 413); and KILARSKI *v.* UNITED STATES (72 M. J. 414). C. A. Armed Forces. Certiorari denied.

No. 13–417. BROWN *v.* UTAH. Ct. App. Utah. Certiorari denied. Reported below: 2013 UT App 99, 300 P. 3d 1289.

No. 13–422. STORY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–427. JUSTICE *v.* INTERNAL REVENUE SERVICE. C. A. D. C. Cir. Certiorari denied. Reported below: 485 Fed. Appx. 439.

No. 13–440. DATTA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 512 Fed. Appx. 60.

No. 13–5002. BARNES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 257.

No. 13–5005. COLEY *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 706 F. 3d 741.

No. 13–5415. GARRIDO, AKA CID-GARRIDO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 241.

No. 13–5430. JOHNSON *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 401 S. W. 3d 1.

No. 13–5436. SMITH *v.* THOMAS, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 703 F. 3d 1266.

No. 13–5483. BLACKSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 709 F. 3d 36.

No. 13–5484. STOJETZ *v.* OHIO. Sup. Ct. Ohio. Certiorari denied. Reported below: 134 Ohio St. 3d 1417, 2013-Ohio-158, 981 N. E. 2d 884.

No. 13–5522. FRANCOIS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 715 F. 3d 21.

No. 13–5920. SATINOVER *v.* SUPERIOR COURT OF CALIFORNIA, LOS ANGELES COUNTY. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied.

No. 13–5933. PRESLEY *v.* CALIFORNIA; and

No. 13–6106. WHITAKER *v.* CALIFORNIA. Ct. App. Cal., 3d App. Dist. Certiorari denied. Reported below: 213 Cal. App. 4th 999, 153 Cal. Rptr. 3d 165.

No. 13–5943. SMITH ET AL. *v.* ATLANTIC SOUTHERN BANK ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 760.

No. 13–5945. HOUA LAO *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5954. CONWAY *v.* WALKER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5965. HUNG NGUYEN *v.* YARBOROUGH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–5966. MARTIN *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–5969. WARD *v.* TERRITORY OF THE VIRGIN ISLANDS. Sup. Ct. V. I. Certiorari denied. Reported below: 58 V. I. 277.

No. 13–5970. ELASALI *v.* SURERIDE CHARTER, INC., ET AL. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 13–5973. SUAREZ *v.* BARTKOWSKI ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–5980. MITCHELL *v.* TEXAS DEPARTMENT OF CRIMINAL JUSTICE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 467.

No. 13–5984. GAKUBA *v.* KURTZ ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 402.

No. 13–5987. CASEY *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 115 So. 3d 1009.

No. 13–5992. KEITZ *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 99 App. Div. 3d 1254, 951 N. Y. S. 2d 454.

No. 13–5994. MANWARREN *v.* WALLACE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–6002. WILLIAMS *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 13–6004. JONES *v.* MORGAN, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 134.

No. 13–6012. ELLISON *v.* BROWN, WARDEN. Super. Ct. Richmond County, Ga. Certiorari denied.

No. 13–6013. DOOLEY *v.* CHAPPELL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6020. COZY *v.* LEGRAND, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6023. JOHNSON *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–6025. MILES *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS. C. A. 9th Cir. Certiorari denied. Reported below: 713 F. 3d 477.

No. 13–6029. FLEMING *v.* COWARD ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 534 Fed. Appx. 947.

No. 13–6043. DAILEY *v.* GIPSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6044. HOWARD *v.* CLARK, CHAIRMAN, LOUISIANA BOARD OF PARDONS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 719 F. 3d 350.

No. 13–6049. HARBISON *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 13–6053. GRABINSKI *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6054. DELEON *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–6060. TINSLEY *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–6061. WILSON *v.* MISSISSIPPI. C. A. 5th Cir. Certiorari denied.

No. 13–6064. TAYLOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 887.

No. 13–6068. BROCKMAN *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 292 Ga. 707, 739 S. E. 2d 332.

No. 13–6071. OLIC *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–6073. ALLEN *v.* GIPSON, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6078. MEZA *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6090. QUINTANA *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–6092. SCOTT *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA. C. A. 11th Cir. Certiorari denied.

No. 13–6093. STRICKLIN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6094. DODSON *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 13–6097. DOUCETTE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6099. BROWN *v.* MCCOLLUM, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 759.

No. 13–6102. WHITFIELD *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 13–6105. IBARRA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 13–6110. WILEY *v.* FIELDS ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–6111. LANCASTER *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6117. SKINNER *v.* D'CUNHA ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 345.

No. 13–6119. WARE *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied.

No. 13–6120. PALIOTTA *v.* MCDANIEL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 501.

No. 13–6121. MATHIS *v.* MONZA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 124.

No. 13–6130. HARRIS *v.* ARVEST BANK. Sup. Ct. Okla. Certiorari denied. Reported below: 311 P. 3d 454.

No. 13–6138. WILLIAMS *v.* SWARTHOUT, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6141. VAUGHAN *v.* AMTRAK. C. A. D. C. Cir. Certiorari denied. Reported below: 516 Fed. Appx. 6.

No. 13–6154. AREF *v.* CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY ET AL. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–6159. LEPRE *v.* DEPARTMENT OF EDUCATION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 121.

No. 13–6175. FITZGERALD *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 232 Ariz. 208, 303 P. 3d 519.

No. 13–6193. BILAAL *v.* COLEMAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6206. VASKO *v.* LAMB, JUDGE, SUPERIOR COURT OF ARIZONA, NAVAJO COUNTY. Ct. App. Ariz. Certiorari denied.

No. 13–6215. KUBLAWI *v.* PALMER, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6218. BABB *v.* GENTRY, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 719 F. 3d 1019.

No. 13–6228. HUNG THACH *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 844.

No. 13–6275. MOREIRA *v.* VARANO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT COAL TOWNSHIP, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6277. Perez *v.* California. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied. Reported below: 214 Cal. App. 4th 49, 154 Cal. Rptr. 3d 114.

No. 13–6284. Pagan *v.* Pennsylvania. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 861.

No. 13–6286. Mansfield et al. *v.* Missouri Department of Corrections et al. C. A. 8th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 560.

No. 13–6290. Carter *v.* Head, Warden. C. A. 11th Cir. Certiorari denied.

No. 13–6296. Cintron *v.* Wenerowicz, Superintendent, State Correctional Institution at Graterford, et al. C. A. 3d Cir. Certiorari denied.

No. 13–6299. Robles *v.* Bureau of Prisons et al. C. A. 11th Cir. Certiorari denied.

No. 13–6301. Rinick *v.* Glunt, Superintendent, State Correctional Institution at Houtzdale, et al. C. A. 3d Cir. Certiorari denied.

No. 13–6305. Killen *v.* Epps, Commissioner, Mississippi Department of Corrections, et al. C. A. 5th Cir. Certiorari denied.

No. 13–6311. I. S. *v.* New Jersey Department of Children and Families, Division of Youth and Family Services. Sup. Ct. N. J. Certiorari denied. Reported below: 214 N. J. 8, 66 A. 3d 1271.

No. 13–6334. Thomas *v.* Poveda et al. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 614.

No. 13–6346. Gates *v.* California. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 13–6366. Wilson *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–6377. Jacobs *v.* Bureau of Prisons et al. C. A. D. C. Cir. Certiorari denied.

No. 13–6387. Mayfield *v.* Taylor, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 538.

No. 13–6399. VANDO *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 63 A. 3d 819.

No. 13–6404. TATUM *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2013 WI App 30, 346 Wis. 2d 279, 827 N. W. 2d 928.

No. 13–6429. CHRISTMAS *v.* HUNTINGTON INGALLS, INC. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 237.

No. 13–6447. VORE *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Warren County. Certiorari denied. Reported below: 2013-Ohio-1490.

No. 13–6458. LOVETT *v.* INTERNAL REVENUE SERVICE. C. A. Fed. Cir. Certiorari denied. Reported below: 520 Fed. Appx. 964.

No. 13–6481. FLETCHER *v.* MYERS ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6490. HUNKELE *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6499. THOMPSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 861.

No. 13–6508. MICHAEL H. *v.* WEST VIRGINIA. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–6513. DOE, AKA MAYERS, AKA MEYERS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 871.

No. 13–6526. ZIERKE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6528. WILLIAMS *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 13–6533. ANDERSON *v.* PRUITT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 341.

No. 13–6535. LASH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6537. LINGENFELTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6539. BURNS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6546. RIASCOS *v.* UNITED STATES; and
No. 13–6592. FABIO ZAPATA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 565.

No. 13–6548. MURPHY-CORDERO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 715 F. 3d 398.

No. 13–6554. MINTZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 225.

No. 13–6558. CHERRY *v.* WASHINGTON COUNTY, WISCONSIN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 683.

No. 13–6559. LUCAS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 463.

No. 13–6563. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 231.

No. 13–6564. JONES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6571. ROSIERE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6572. CURTIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 823.

No. 13–6573. MASSARO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6574. HILTERBRAND *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 394.

No. 13–6575. HULL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 256.

No. 13–6577. CHAVARRY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 924.

No. 13–6579. DILL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6581. FREEMAN *v.* MISSOURI. Ct. App. Mo., Southern Dist. Certiorari denied.

No. 13–6582. FRAZIER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 902.

No. 13–6583. GRIFFITH *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6584. HAWKINS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6585. FLORES-JIMENEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 255.

No. 13–6588. REMINSKY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 327.

No. 13–6593. ALVAREZ-SOTO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 420.

No. 13–6594. BROWN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 732 F. 3d 569.

No. 13–6597. O'NEAL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 203.

No. 13–6600. KEBEDE *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 55 A. 3d 402.

No. 13–6602. GARIBALDI-IBANES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 509.

No. 13–6607. DOTSTRY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6612. COOK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 341.

No. 13–6616. DECIANTIS *v.* VIERRA, WARDEN. C. A. 1st Cir. Certiorari denied. Reported below: 722 F. 3d 41.

No. 13–6617. CHAMBERS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 643.

No. 13–6618. CAMPBELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 303.

No. 13–6621. BENNETT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 419.

No. 13–6622. ANDERSON *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6624. HARRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 720 F. 3d 499.

No. 13–6625. CERVANTES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 533.

No. 13–6626. PETERS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 485.

No. 13–6627. MILLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 569.

No. 13–6629. ORTEGA-GARCIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 261.

No. 13–6632. VAUGHN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 722 F. 3d 918.

No. 13–6633. RAGOSTA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 663.

No. 13–6636. CRIMMINS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 660.

No. 13–6638. MOORE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 336.

No. 13–6639. JONES ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 291.

No. 13–6654. FLUELLEN *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6657. CORONADO-MEZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 331.

No. 13–6658. RODRIGUEZ ESPINOZA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 727.

No. 13–6660. BAILENTIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 717 F. 3d 448.

No. 13–6661. ANCHICO-MOSQUERA ET AL. *v.* UNITED STATES; and

No. 13–6663. LOYD ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 753.

No. 13–6662. ANGUIANO-MORFIN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 713 F. 3d 1208.

No. 13–6664. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 689.

No. 13–6669. NEUMANN ET VIR *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2013 WI 58, 348 Wis. 2d 455, 832 N. W. 2d 560.

No. 13–6673. WOIDA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6685. READER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 302.

No. 13–6692. BOWEN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6693. DAVIS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 711 F. 3d 174.

No. 13–6694. VENEGAS-REYNOSO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 373.

No. 13–6697. WINSTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–6698. STINNETT *v.* MILLER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6699. MATCOVICH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 850.

No. 13–6700. CLARK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 603.

No. 13–6705. STRONG *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6706. HEMETEK *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 261.

No. 13–6707. Fernandez-Torres *v.* United States. C. A. 1st Cir. Certiorari denied.

No. 13–6708. Grimsley *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–6710. Garcia-Diaz *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 592.

No. 13–6711. Fallas-Garo *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 255.

No. 13–6731. Miller *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 259.

No. 13–6732. McCallum *v.* United States. C. A. D. C. Cir. Certiorari denied. Reported below: 721 F. 3d 706.

No. 13–6741. Jones *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 747.

No. 13–6744. Lopez *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 625.

No. 13–6745. Davis, aka As-Salafi *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 375.

No. 13–6749. Nasi *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–6751. Plaza-Uzeta *v.* United States. C. A. 9th Cir. Certiorari denied.

No. 13–6752. Navarro-Montes *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 611.

No. 13–6753. Pineda-Pineda *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 272.

No. 13–6754. Pilch *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 541 Fed. Appx. 172.

No. 13–6755. Bolander *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 722 F. 3d 199.

No. 13–136. Marek *v.* Lane, Individually and on Behalf of All Others Similarly Situated, et al. C. A. 9th Cir. Certiorari denied. Reported below: 696 F. 3d 811.

Statement of CHIEF JUSTICE ROBERTS respecting the denial of certiorari.

In November 2007, respondent Facebook, Inc., released a program called "Beacon." It worked like this: Whenever someone visited the Web site of a participating company and performed a "trigger" activity, such as posting a comment or buying a product, the program would automatically report the activity and the user's personally identifiable information to Facebook—regardless of whether the user was a Facebook member. If the user was a Facebook member, Facebook would publish the activity on his member profile and broadcast it to everyone in his "friends" network. So rent a movie from Blockbuster.com, and all your friends would know the title. Or plan a vacation on Hotwire.com, and all your friends would know the destination. To prevent Facebook from posting a particular trigger activity, a member had to affirmatively opt out by clicking an icon in a pop-up window that appeared for about 10 seconds after he performed the activity.

Beacon resulted in the dissemination of large amounts of information Facebook members allegedly did not intend to share, provoking a public outcry against Beacon and Facebook. Facebook responded about a month after Beacon's launch by changing the program's default setting from opt out to opt in, so that any given trigger activity would not appear on a member's profile unless the member explicitly consented. Facebook also allowed its members to disable Beacon altogether.

In August 2008, 19 individuals brought a putative class-action lawsuit in the U. S. District Court for the Northern District of California against Facebook and the companies that had participated in Beacon, alleging violations of various federal and state privacy laws. The putative class comprised only those individuals whose personal information had been obtained and disclosed by Beacon during the approximately one-month period in which the program's default setting was opt out rather than opt in. The complaint sought damages and various forms of equitable relief, including an injunction barring the defendants from continuing the program.

In the end, the vast majority of Beacon's victims got neither remedy. The named plaintiffs reached a settlement agreement with the defendants before class certification. Although Facebook promised to discontinue the "Beacon" program itself, plain-

tiffs' counsel conceded at the fairness hearing in the District Court that nothing in the settlement would preclude Facebook from reinstituting the same program with a new name. See Tr. 18 (Feb. 26, 2010) (counsel for named plaintiffs) ("At the end of the day, we could not reach agreement with defendants regarding limiting their future actions as a corporation").

And while Facebook also agreed to pay $9.5 million, the parties allocated that fund in an unusual way. Plaintiffs' counsel were awarded nearly a quarter of the fund in fees and costs, while the named plaintiffs received modest incentive payments. The unnamed class members, by contrast, received no damages from the remaining $6.5 million. Instead, the parties earmarked that sum for a "*cy pres*" remedy—an "as near as" form of relief—because distributing the $6.5 million among the large number of class members would result in too small an award per person to bother. The *cy pres* remedy agreed to by the parties entailed the establishment of a new charitable foundation that would help fund organizations dedicated to educating the public about online privacy. A Facebook representative would be one of the three members of the new foundation's board.

To top it off, the parties agreed to expand the settlement class barred from future litigation to include not just those individuals injured by Beacon during the brief period in which it was an opt-out program—the class proposed in the original complaint—but also those injured after Facebook had changed the program's default setting to opt in. Facebook thus insulated itself from all class claims arising from the Beacon episode by paying plaintiffs' counsel and the named plaintiffs some $3 million and spending $6.5 million to set up a foundation in which it would play a major role. The District Court approved the settlement as "fair, reasonable, and adequate." Fed. Rule Civ. Proc. 23(e)(2); see *Lane* v. *Facebook, Inc.*, Civ. No. C 08–3845, 2010 WL 9013059 (ND Cal., Mar. 17, 2010).

Petitioner Megan Marek was one of four unnamed class members who objected to the settlement. Her challenge focused on a number of disconcerting features of the new foundation: the facts that a senior Facebook employee would serve on its board, that the board would enjoy nearly unfettered discretion in selecting fund recipients, and that the foundation—as a new entity—necessarily lacked a proven track record of promoting the objectives behind the lawsuit. She also criticized the overall

settlement amount as too low. The District Court rebuffed these objections, as did a divided panel of the Ninth Circuit on appeal. *Lane* v. *Facebook, Inc.*, 696 F. 3d 811 (2012). A petition for rehearing en banc was denied, over the dissent of six judges. *Lane* v. *Facebook, Inc.*, 709 F. 3d 791 (2013).

I agree with this Court's decision to deny the petition for certiorari. Marek's challenge is focused on the particular features of the specific *cy pres* settlement at issue. Granting review of this case might not have afforded the Court an opportunity to address more fundamental concerns surrounding the use of such remedies in class-action litigation, including when, if ever, such relief should be considered; how to assess its fairness as a general matter; whether new entities may be established as part of such relief; if not, how existing entities should be selected; what the respective roles of the judge and parties are in shaping a *cy pres* remedy; how closely the goals of any enlisted organization must correspond to the interests of the class; and so on. This Court has not previously addressed any of these issues. *Cy pres* remedies, however, are a growing feature of class-action settlements. See Redish, Julian, & Zyontz, Cy Pres Relief and the Pathologies of the Modern Class Action: A Normative and Empirical Analysis, 62 Fla. L. Rev. 617, 653–656 (2010). In a suitable case, this Court may need to clarify the limits on the use of such remedies.

No. 13–264. Florida *v.* Deviney. Sup. Ct. Fla. Motion of respondent to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 112 So. 3d 57.

No. 13–355. Giller *v.* Oracle USA, Inc. C. A. 2d Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 512 Fed. Appx. 71.

No. 13–365. Markgraf *v.* A. D., a Minor, et al. C. A. 9th Cir. Motion of California State Association of Counties for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 712 F. 3d 446.

No. 13–418. Dhafir, aka Sealed Defendant *v.* United States. C. A. 2d Cir. Certiorari denied. Justice Sotomayor and Justice Kagan took no part in the consideration or decision of this petition. Reported below: 511 Fed. Appx. 74.

No. 13–5482. BYRD *v.* TIME WARNER CABLE INC. ET AL. C. A. 6th Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 507 Fed. Appx. 565.

No. 13–6034. RENTERIA *v.* ADAMS, WARDEN. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 526 Fed. Appx. 724.

No. 13–6550. COX *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 458 Fed. Appx. 79.

No. 13–6568. MAYER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6759. HAIRSTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 505 Fed. Appx. 272.

NOVEMBER 12, 2013

Dismissal Under Rule 46

No. 13–334. FUNG ET AL. *v.* COLUMBIA PICTURES INDUSTRIES, INC., ET AL. C. A. 9th Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 710 F. 3d 1020.

Certiorari Dismissed

No. 13–6173. TRICOME *v.* CHUNIAS ET AL. C. A. 1st Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–6187. SWEENEY *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. 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. 13–6226. ZIED-CAMPBELL ET VIR *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Motion of petitioners for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule

39.8. As petitioner Mindy Jaye Zied-Campbell has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from Mindy Jaye Zied-Campbell 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: 514 Fed. Appx. 154.

No. 13–6255. KEELING *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. 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. 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: 518 Fed. Appx. 77.

No. 13–6428. KLAT *v.* MITCHELL REPAIR INFORMATION CO., LLC, 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. Reported below: 528 Fed. Appx. 733.

No. 13–6743. HIEN ANH DAO *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

Miscellaneous Orders

No. D–2743. IN RE DISCIPLINE OF MCGARRY. Richard Lawrence James McGarry, of Roanoke, Va., 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–2744. IN RE DISCIPLINE OF LEZELL. Mark L. Lezell, of Rockville, 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–2745. IN RE DISCIPLINE OF HAACKE. LeslieAnn Haacke, of Scottsdale, Ariz., 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–2746. IN RE DISCIPLINE OF BLANK. Diane Serafin Blank, of New York, N. Y., 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. 13M52. ROBINSON *v.* BANDY ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 12–10869. IN RE DAVIS. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 814] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 12–11004. TOWNSEND *v.* NEW JERSEY TRANSIT. C. A. 3d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied.

No. 13–5068. JONES *v.* VOUITTON. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 804] denied.

No. 13–5330. DYDZAK *v.* SCHWARZENEGGER ET AL. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 805] denied.

No. 13–6214. LUBLIN *v.* LUBLIN, NKA LAWSON. Sup. Ct. Nev. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 3, 2013, 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. 13–487. IN RE MCDONALD;
No. 13–6902. IN RE TAYLOR;
No. 13–6931. IN RE JACKSON; and
No. 13–7014. IN RE JONES. Petitions for writs of habeas corpus denied.

No. 13–6232. IN RE SCHULTZ. 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. 13–6238. In re Clay. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 12–1170. Pruitt, Attorney General of Oklahoma, et al. *v.* Nova Health Systems, dba Reproductive Services, et al. Sup. Ct. Okla. Certiorari denied. Reported below: 2012 OK 103, 292 P. 3d 28.

No. 12–10741. Gordon *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 710 F. 3d 1124.

No. 13–5. Bernard *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 708 F. 3d 583.

No. 13–173. Renda *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 709 F. 3d 472.

No. 13–179. Kaplan et al. *v.* Code Blue Billing & Coding, Inc., et al. C. A. 11th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 831.

No. 13–182. Larry Griffin Special Needs Trust et al. *v.* ACS Recovery Services, Inc., et al. C. A. 5th Cir. Certiorari denied. Reported below: 723 F. 3d 518.

No. 13–296. Hyundai Motor America, Inc. *v.* Clear With Computers, LLC. C. A. Fed. Cir. Certiorari denied. Reported below: 496 Fed. Appx. 88.

No. 13–311. Daughters of St. Paul Inc., dba Pauline Books & Media *v.* Parish of Jefferson. Ct. App. La., 5th Cir. Certiorari denied. Reported below: 12–494 (La. App. 5 Cir. 3/27/13), 113 So. 3d 371.

No. 13–391. Berger *v.* Horne, Attorney General of Arizona, et al. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 543.

No. 13–5398. Ramos Vargas *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 932.

No. 13–5856. Hill *v.* Wal-Mart Stores, Inc. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 810.

No. 13–6160. JACKSON *v.* CORCORAN, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 192.

No. 13–6162. MAITLAND *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 53 A. 3d 934.

No. 13–6164. BORKOWSKI *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–6168. WIGHTMAN *v.* MORGAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6179. LACROIX *v.* UNITED STATES DISTRICT COURT FOR THE SOURTHERN DISTRICT OF INDIANA; LACROIX *v.* MORGAN STANLEY & CO., INC., ET AL.; LACROIX *v.* MORGAN STANLEY & CO., INC., ET AL.; and LACROIX *v.* MORGAN STANLEY & CO., INC., ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–6198. MCDONOUGH *v.* YATES, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 796.

No. 13–6205. ROBINSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6207. ZIMMERMAN *v.* SMITH, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 333.

No. 13–6208. CLARK *v.* DEPARTMENT OF JUSTICE ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6210. DUNGAN *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 851.

No. 13–6211. PAGONIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6212. MARTINEZ *v.* TEXAS. Ct. App. Tex., 11th Dist. Certiorari denied.

No. 13–6220. MCDONALD *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied. Reported below: 401 S. W. 3d 360.

No. 13–6222. MCELVEEN *v.* CALIBRE ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6223. Positano *v.* Wetzel, Secretary, Pennsylvania Department of Corrections, et al. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 116.

No. 13–6227. Davis *v.* Clark, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–6233. Chestang *v.* Sisto, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 389.

No. 13–6234. Chestang *v.* Yahoo, Inc. C. A. 9th Cir. Certiorari denied.

No. 13–6235. Enriquez *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6239. Chappell *v.* Jones, Director, Oklahoma Department of Corrections, et al. C. A. 10th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 838.

No. 13–6248. Blank *v.* Eavenson et al. C. A. 5th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 364.

No. 13–6251. Fatta *v.* M & M Properties Management, Inc. Ct. App. N. C. Certiorari denied. Reported below: 224 N. C. App. 18, 735 S. E. 2d 836.

No. 13–6252. Werber *v.* Bunting, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–6269. Isasi *v.* Holder, Attorney General, et al. C. A. 2d Cir. Certiorari denied.

No. 13–6273. Mutschler *v.* State Correctional Institution-Albion, Chief Health Care Administrator, et al. C. A. 3d Cir. Certiorari denied. Reported below: 516 Fed. Appx. 104.

No. 13–6310. Webber *v.* Franke, Superintendent, Two Rivers Correctional Institution. C. A. 9th Cir. Certiorari denied.

No. 13–6314. Wright *v.* Allenby, Acting Director, California Department of Mental Health, et al. C. A. 9th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 649.

No. 13–6327. BURT *v.* PEARSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 156.

No. 13–6363. AYOBOLA, AKA OYELAKIN *v.* UNITED STATES ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6395. ANTONIO VILLARREAL *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied.

No. 13–6402. TRUSS *v.* THOMAS ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6450. ORTIZ-SALGADO *v.* POLK, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 700.

No. 13–6453. CEBALLOS *v.* WILLIAMS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 856.

No. 13–6461. TRAXTLE *v.* HOLMAN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 502 Fed. Appx. 709.

No. 13–6468. BERRIOZ *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 215.

No. 13–6487. GARDNER *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–6534. JOHNSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 113 So. 3d 2.

No. 13–6549. SOBCZAK *v.* WISCONSIN. Sup. Ct. Wis. Certiorari denied. Reported below: 2013 WI 52, 347 Wis. 2d 724, 833 N. W. 2d 59.

No. 13–6555. CHEFFEN *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 297 Kan. 689, 303 P. 3d 1261.

No. 13–6557. DIAZ *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6562. KELLY *v.* SHEAHAN, SUPERINTENDENT, FIVE POINTS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6631. THEUS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6635. BRADLEY *v.* SAUERS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6647. FRANCES *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6675. SIDBURY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 336.

No. 13–6678. SHI YONG WEI *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6683. BARBA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied. Reported below: 215 Cal. App. 4th 712, 155 Cal. Rptr. 3d 707.

No. 13–6695. WEAVER *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 13–6709. GRAY *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 465 Mass. 330, 990 N. E. 2d 528.

No. 13–6727. INGRAM *v.* JUST ENERGY. C. A. 2d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 48.

No. 13–6757. THOMPSON *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 721 F. 3d 711.

No. 13–6764. GONZALES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 425.

No. 13–6766. GOMEZ-ORTIZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 376.

No. 13–6767. BOYD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 721 F. 3d 1259.

No. 13–6768. LOPEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 378.

No. 13–6775. BROOKS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 722 F. 3d 1105.

No. 13–6778. BROWN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–6782. CARDONA GUILLEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 354.

No. 13–6784. VANDERWAL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 433 Fed. Appx. 498.

No. 13–6789. SHELTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 400.

No. 13–6791. DARDEN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied.

No. 13–6806. DORMEUS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 545.

No. 12–968. URIBE, WARDEN *v.* JOHNSON. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 700 F. 3d 413.

No. 12–1460. MCFADYEN ET AL. *v.* CITY OF DURHAM, NORTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 703 F. 3d 636.

No. 13–95. UNGER, SUPERINTENDENT, WYOMING CORRECTIONAL FACILITY *v.* YOUNG. C. A. 2d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 698 F. 3d 69.

JUSTICE ALITO, joined by JUSTICE SCALIA, dissenting.

The United States Court of Appeals for the Second Circuit granted habeas relief in this case after concluding that New York's highest court unreasonably applied our decision in *United States* v. *Wade*, 388 U. S. 218 (1967), when it determined that a witness' prolonged observation of a burglar in a well-lighted area of her own home provided an independent source for her in-court identification of respondent. Because the Second Circuit's decision contravenes the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 110 Stat. 1214, our decision in *Cullen* v. *Pinholster*, 563 U. S. 170 (2011), and *Wade* itself, I would grant the petition and reverse.

I

In 1991, a burglar invaded the home of William and Lisa Sykes. In a well-lighted area of the home, the burglar brandished an axe over the head of Mr. Sykes, who was confined to a wheelchair, and demanded money. Mrs. Sykes was standing only three or four feet away from the burglar. Although his body was covered with a blanket and the lower part of his face with a scarf, Mrs. Sykes was able to observe clearly the upper part of his face. At first Mrs. Sykes was unable to believe that a burglar had entered the house; she thought the incident might be a prank by someone she knew, and therefore stared at the burglar's eyes to see if she could detect his identity.

The burglar remained in the Sykeses' home for five to seven minutes. During the course of the burglary, he took cash from Mr. Sykes' wallet and Mrs. Sykes' purse, as well as three watches and a pair of binoculars with the name "Sykes" written on them. Mrs. Sykes continued to stare at the burglar while he was in the house, at one point prompting the burglar to order her, "'Don't look at my face.'" App. to Pet. for Cert. 101a. After ripping two telephones out of the wall to prevent Mr. or Mrs. Sykes from calling the police, the burglar left the house.

The police later arrested respondent. Mrs. Sykes identified him at a lineup on the basis of his appearance and voice, but a state court later concluded that the police lacked probable cause to arrest respondent, and that the lineup was tainted by the illegal arrest.

At respondent's trial, the prosecution introduced a variety of evidence that respondent was the burglar. For instance, an acquaintance of respondent's testified that, at about the time of the burglary, respondent sold her a pair of binoculars bearing the name "Sykes" and three watches like those stolen from the Sykeses' home. Mrs. Sykes also testified and identified respondent as the burglar. She was permitted to identify respondent on the grounds that her observations of the burglar during the course of the crime provided an independent source of identification.

On direct appeal, the New York Court of Appeals correctly cited this Court's decision in *Wade*, *supra*, as providing the governing standard for respondent's independent source challenge, which it rejected. *People* v. *Young*, 7 N. Y. 3d 40, 44, 850 N. E. 2d 623, 626 (2006). Respondent then filed a petition for habeas

relief, which the District Court granted. The Second Circuit affirmed, concluding that the New York Court of Appeals' application of *Wade* was unreasonable because all six *Wade* factors favored respondent. In particular, the Second Circuit cited two sources of authority for its determination that the first *Wade* factor, the witness' "prior opportunity to observe the alleged criminal act," *Wade*, *supra*, at 241, favored respondent: Second Circuit precedent and several social science studies that questioned an eyewitness' ability to make an accurate identification in circumstances like those present here. *Young* v. *Conway*, 698 F. 3d 69, 80–83 (2012).

The State petitioned for rehearing en banc. The Second Circuit denied the petition, with Judges Cabranes, Raggi, and Livingston dissenting from denial.

II

There is no dispute that the New York Court of Appeals applied the correct legal standard in this case. Nor is it disputed that, because this Court has not given relevant guidance on how to weigh the various *Wade* factors, the Second Circuit's decision is tenable only if that court correctly concluded that all the factors favor respondent.

That conclusion, however, is deeply flawed. In the first place, the Second Circuit relied on its own precedent to determine that the first *Wade* factor favored respondent—a choice that AEDPA clearly forecloses. See 28 U. S. C. § 2254(d)(1) (limiting habeas relief to cases in which a state court rendered 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").

The only other basis for the Second Circuit's conclusion on the first factor is its citation to several social science studies that were never presented to the state courts. We stated very clearly in *Pinholster* that "review under § 2254(d)(1) is limited to the record that was before the state court that adjudicated the claim on the merits." 563 U. S., at 181. The lower court attempted to distinguish *Pinholster* by explaining that the social science studies "reinforced," but did not "compe[l] or contro[l]," its conclusion that the New York Court of Appeals unreasonably applied *Wade*. 698 F. 3d, at 79, n. 8. But we drew no such distinction between "reinforcing" and "controlling" evidence in *Pinholster*, and the Second Circuit erred by doing so here. In any event, if it is

true that the studies merely "reinforced" the Second Circuit's conclusion, then that conclusion must have been "compelled" by the only other authority on which the court relied: its own precedent. And as noted, AEDPA flatly prohibits such reliance.*

More fundamentally, the Second Circuit's disagreement is not with the New York Court of Appeals; it is with us. Mrs. Sykes unquestionably had a substantial opportunity to observe the burglar. We held in *Wade* that "the prior opportunity to observe the alleged criminal act" favors finding that an independent source exists. 388 U. S., at 241. The Second Circuit held, to the contrary, that such an opportunity does not suggest the existence of an independent source in the circumstances of this case. *Wade* simply does not leave that option on the table.

The Second Circuit's decision creates loopholes in both *Pinholster* and *Wade*. In my view, the importance of this issue warrants review at this time. I respectfully dissent from the denial of certiorari.

No. 13–261. CARIOU *v.* PRINCE ET AL. C. A. 2d Cir. Motion of New York Intellectual Property Law Association for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 714 F. 3d 694.

No. 13–297. PLASSE *v.* DUNG MAO ET UX. Ct. App. Wash. Motion of Seattle Transit Riders Union et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 171 Wash. App. 1008.

No. 13–341. DOWNS *v.* UNITED STATES ARMY CORPS OF ENGINEERS. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 517 Fed. Appx. 717.

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*The analysis of the court below cannot be defended on the ground that *Pinholster* concerns only adjudicative facts and that the data in the social science studies constituted legislative facts. See Advisory Committee's Note on subd. (a) of Fed. Rule Evid. 201, 28 U. S. C. App., p. 319. *Pinholster* does not mention any such distinction, but even if *Pinholster* is limited in this way, the Second Circuit's analysis would still be flawed. By accepting and applying the factual conclusions drawn in the studies in question to conclude that, in the circumstances presented, Mrs. Sykes' prior opportunity to observe the burglar did not suggest the existence of an independent source, the Second Circuit significantly altered the holding in *Wade*, as explained *infra* this page.

No. 13–408. FARKAS *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 5th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 544 Fed. Appx. 324.

No. 13–6737. WILLIAMS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 520 Fed. Appx. 174.

No. 13–7259 (13A474). KIMBROUGH *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: 125 So. 3d 752.

Rehearing Denied

No. 12–10428. KIM *v.* SUSSAL ET AL., *ante*, p. 849;

No. 12–10575. SMITH ET UX. *v.* REGIONS BANK ET AL., *ante*, p. 856;

No. 13–32. DE LOS SANTOS *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, *ante*, p. 882;

No. 13–5166. JONES *v.* MCCLARTY, JUDGE, ET AL., *ante*, p. 900;

No. 13–5726. IN RE COLBERT, *ante*, p. 815; and

No. 13–5898. DAVIS *v.* UNITED STATES, *ante*, p. 933. Petitions for rehearing denied.

No. 12–10953. KAPORDELIS *v.* UNITED STATES, *ante*, p. 943. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 12–10992. FEUER *v.* UNITED STATES, *ante*, p. 944. Petition for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

NOVEMBER 14, 2013

Miscellaneous Order

No. 13A374 (13–6827). HOLT, AKA MUHAMMAD *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Application for an injunction, submitted to JUSTICE ALITO, and by him referred to the Court, granted pending disposition of applicant's petition for writ of certiorari. Respondents are

enjoined from enforcing the Arkansas Department of Correction's grooming policy to the extent that it prohibits applicant from growing a ½-inch beard in accordance with his religious beliefs. If the Court denies the petition for writ of certiorari, 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.

NOVEMBER 15, 2013

Dismissal Under Rule 46

No. 11–1507. TOWNSHIP OF MOUNT HOLLY, NEW JERSEY, ET AL. *v.* MT. HOLLY GARDENS CITIZENS IN ACTION, INC., ET AL. C. A. 3d Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 658 F. 3d 375.

Certiorari Granted

No. 12–1117. PLUMHOFF ET AL. *v.* RICKARD, A MINOR CHILD, INDIVIDUALLY, AND AS SURVIVING DAUGHTER OF RICKARD, DECEASED, BY AND THROUGH HER MOTHER RICKARD, AS PARENT AND NEXT FRIEND. C. A. 6th Cir. Certiorari granted. Reported below: 509 Fed. Appx. 388.

No. 13–317. HALLIBURTON CO. ET AL. *v.* ERICA P. JOHN FUND, INC., FKA ARCHDIOCESE OF MILWAUKEE SUPPORTING FUND, INC. C. A. 5th Cir. Certiorari granted. Reported below: 718 F. 3d 423.

NOVEMBER 18, 2013

Certiorari Granted—Vacated and Remanded

No. 13–5820. OLTEN *v.* UNITED STATES. C. A. 8th 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 *Descamps* v. *United States*, 570 U. S. 254 (2013).

Certiorari Dismissed

No. 13–6645. FLEMMING *v.* KEMP ET AL. 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. 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. 13A143. MYNES *v.* UNITED STATES. Application for certificate of appealability, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. D–2731. IN RE CHESLEY. Stanley M. Chesley, of Cincinnati, Ohio, having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to the practice of law before this Court. The rule to show cause, issued on June 17, 2013 [570 U. S. 903], is discharged.

No. 13M53. DORR *v.* FORD MOTOR CO. ET AL. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 12–138. BG GROUP PLC *v.* REPUBLIC OF ARGENTINA. C. A. D. C. Cir. [Certiorari granted, 569 U. S. 1029.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–315. AIR WISCONSIN AIRLINES CORP. *v.* HOEPER. Sup. Ct. Colo. [Certiorari granted, 570 U. S. 904.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–515. MICHIGAN *v.* BAY MILLS INDIAN COMMUNITY ET AL. C. A. 6th Cir. [Certiorari granted, 570 U. S. 916.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–820. LOZANO *v.* MONTOYA ALVAREZ. C. A. 2d Cir. [Certiorari granted, 570 U. S. 916.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–5196. LAW *v.* SIEGEL, CHAPTER 7 TRUSTEE. C. A. 9th Cir. [Certiorari granted, 570 U. S. 904.] Motion of the Solicitor

General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–10459. COBBLE *v.* MCLAUGHLIN, WARDEN. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 803] denied.

No. 12–10919. DARNELL *v.* STEPHENS, 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* [*ante*, p. 804] denied.

No. 12–11001. KASHFIAN *v.* ABRAMS ET AL. Ct. App. Cal., 2d App. Dist., Div. 4. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied.

No. 13–5416. IN RE CROSBY. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 814] denied.

No. 13–5784. KEMPPAINEN *v.* TEXAS. Ct. Crim. App. Tex. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 949] denied.

No. 13–5926. MARCUSSE *v.* FLOURNOY, WARDEN. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 13–6038. WILLIAMS *v.* UNITED STATES MARSHALS SERVICE ET AL. C. A. 11th Cir.;

No. 13–6039. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir.; and

No. 13–6040. WILLIAMS *v.* UNITED STATES ET AL. C. A. 11th Cir. Motions of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied.

No. 13–6326. BACH *v.* LINHART ET AL. Ct. App. Wis.;

No. 13–6396. WALLIS *v.* LEVINE ET AL. C. A. 7th Cir.;

No. 13–6398. MISSUD *v.* CALIFORNIA ET AL. C. A. 9th Cir.;

No. 13–6580. CRIPPEN *v.* TENNESSEE. Ct. Crim. App. Tenn.;

No. 13–6840. McConnel *v.* United States. C. A. 10th Cir.; and

No. 13–6867. Edwards *v.* New York State Unified Court System. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 9, 2013, 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. 13–7049. In re McCormack;

No. 13–7082. In re Avery; and

No. 13–7098. In re Strong. Petitions for writs of habeas corpus denied.

No. 13–5071. In re Williams;

No. 13–6354. In re Beyah;

No. 13–6496. In re Biton;

No. 13–6885. In re Biton; and

No. 13–6944. In re Barakat. Petitions for writs of mandamus denied.

No. 13–58. In re Electronic Privacy Information Center; and

No. 13–6371. In re Craft. Petitions for writs of mandamus and/or prohibition denied.

Certiorari Denied

No. 12–8965. Sessoms *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 488 Fed. Appx. 539.

No. 12–9941. Anderson *v.* Private Capital Group et al. C. A. 9th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 357.

No. 12–9976. Thurber *v.* Bank of New York Mellon et al. C. A. 1st Cir. Certiorari denied.

No. 12–9981. Finkelson *v.* Yuen. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 12–10006. Missud *v.* D. R. Horton, Inc., et al. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 12–10412. Kelmar *v.* Corstorphine et al. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 12–10426. ROACH *v.* HAGEL, SECRETARY OF DEFENSE. C. A. 4th Cir. Certiorari denied. Reported below: 487 Fed. Appx. 112.

No. 12–10884. HARTMAN *v.* PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 513 Fed. Appx. 955.

No. 13–190. SHENOY *v.* CHARLOTTE-MECKLENBURG HOSPITAL AUTHORITY, DBA CAROLINAS HEALTHCARE SYSTEM, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 168.

No. 13–319. WATERFIELD *v.* LABODA ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 667.

No. 13–320. BACARDI INTERNATIONAL LTD. *v.* V. SUAREZ & CO., INC. C. A. 1st Cir. Certiorari denied. Reported below: 719 F. 3d 1.

No. 13–322. MILLER *v.* TEXAS. Ct. App. Tex., 2d Dist. Certiorari denied.

No. 13–326. RIVERA FRANCO *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–329. MOFFETT ENGINEERING, LTD. *v.* AINSWORTH ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 174.

No. 13–330. AVIS BUDGET GROUP, INC., FKA CENDANT CORP., ET AL. *v.* ALASKA RENT-A-CAR, INC. C. A. 9th Cir. Certiorari denied. Reported below: 738 F. 3d 960.

No. 13–337. TRIPLE A INTERNATIONAL, INC. *v.* DEMOCRATIC REPUBLIC OF CONGO. C. A. 6th Cir. Certiorari denied. Reported below: 721 F. 3d 415.

No. 13–375. ARTESYN TECHNOLOGIES, INC., ET AL. *v.* SYNQOR, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 709 F. 3d 1365.

No. 13–381. AHMAD *v.* HOLDER, ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 366.

No. 13–397. MILLER *v.* HINSHAW & CULBERTSON ET AL. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 391 S. W. 3d 886.

No. 13–399. POWELL *v.* SADDLER. C. A. 7th Cir. Certiorari denied.

No. 13–410. TOY *v.* HOLDER, ATTORNEY GENERAL. C. A. 5th Cir. Certiorari denied. Reported below: 714 F. 3d 881.

No. 13–423. LONG-WIGGINS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 115 So. 3d 1006.

No. 13–450. BENSON *v.* BALTIMORE EQUITABLE INSURANCE. Cir. Ct. Baltimore County, Md. Certiorari denied.

No. 13–472. GREEN ET UX. *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 722 F. 3d 1146.

No. 13–473. TOEPFER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 834.

No. 13–476. DOMINGUE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–484. OLSEN *v.* DRUG ENFORCEMENT ADMINISTRATION. C. A. D. C. Cir. Certiorari denied. Reported below: 706 F. 3d 438.

No. 13–5109. DESAUTEL *v.* DUPRIS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 490 Fed. Appx. 914.

No. 13–5207. HILL *v.* HAWKS, JUDGE, CIRCUIT COURT OF THE CITY OF PORTSMOUTH, VIRGINIA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 234.

No. 13–5323. ADAMS *v.* MONTENAY POWER CORP. ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 114 So. 3d 932.

No. 13–5351. MORGAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 850.

No. 13–5757. GOLDEN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 709 F. 3d 1229.

No. 13–5789. DECUBAS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 986.

No. 13–5855. GREEN *v.* AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS ET AL. C. A. D. C. Cir. Certiorari denied.

No. 13–6058. EDMISTON *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 619 Pa. 549, 65 A. 3d 339.

No. 13–6256. JOHNSON *v.* COLEMAN, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FAYETTE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6257. MACIAS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 8. Certiorari denied.

No. 13–6280. WALKER *v.* STITH. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 202.

No. 13–6281. WALTERS *v.* BUCHANAN, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 375.

No. 13–6283. MCCABE *v.* PENNSYLVANIA DEPARTMENT OF CORRECTIONS ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 858.

No. 13–6285. LUIS MORALES *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 13–6289. AVILA TORREZ *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 13–6292. WHITWORTH *v.* LOWERY ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6297. DESILETS *v.* TEXAS. Ct. App. Tex., 9th Dist. Certiorari denied.

No. 13–6302. SCHENCK *v.* SUPERIOR COURT OF CALIFORNIA, MARIN COUNTY, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6304. MARVEL *v.* DELAWARE. Sup. Ct. Del. Certiorari denied. Reported below: 74 A. 3d 654.

No. 13–6306. WAITHE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6307. WILDER *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 320 Ga. App. 497, 740 S. E. 2d 241.

No. 13–6308. THOMAS *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 13–6309. YADON *v.* HILTON ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 694.

No. 13–6316. KEY *v.* MIANO ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 203.

No. 13–6317. JONES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6320. SIROIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6321. MAYS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–6328. BRISTOW *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 13–6329. BANH *v.* MONTGOMERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6331. WILLIAMS *v.* WILLIAMS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6333. WALKER *v.* DAVIS. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 471.

No. 13–6335. REED *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 116 So. 3d 260.

No. 13–6336. CRUZ RIVERA *v.* BUSBY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6337. JEFFERSON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 112453–U.

No. 13–6338. JEFFREY K. *v.* BALLARD, WARDEN. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–6339. JOHNSON *v.* BUSBY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6342. WILLIAMS *v.* PEREZ ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–6343. TAVERNA *v.* ATLANTIC VAN BUREN ROAD, LLC, ET AL. Super. Ct. Pa. Certiorari denied. Reported below: 62 A. 3d 458.

No. 13–6350. GU *v.* ABRAHAM ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 513.

No. 13–6351. HINES *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 13–6356. HOGAN *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 769.

No. 13–6364. PARKER *v.* CITIMORTGAGE, INC., ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6367. TOLIVER *v.* ARTUS, SUPERINTENDENT, WENDE CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6368. LINDSEY *v.* INDIANA. Ct. App. Ind. Certiorari denied.

No. 13–6369. SOLIS *v.* SOLIS GRIEGO ET AL. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 13–6375. CASTRO *v.* KATAVICH, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6379. SIGMON *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 403 S. C. 120, 742 S. E. 2d 394.

No. 13–6390. VALENCIA *v.* MCDONALD, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 712.

No. 13–6394. BRADSHAW *v.* MONTGOMERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6397. WRIGHT *v.* BEARDEN ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 151.

No. 13–6410. MUNGUIA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–6446. YOUNG *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6449. STANLEY *v.* BANK OF NEW YORK MELLON. Ct. App. Ga. Certiorari denied. Reported below: 320 Ga. App. XXVI.

No. 13–6451. MILLER *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 13–6478. COLLINS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6498. CARTER *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 8th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 602.

No. 13–6510. PHELAN *v.* SHEAHAN, SUPERINTENDENT, FIVE POINTS CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6516. SIMMONS *v.* SUPERIOR COURT OF CALIFORNIA, SACRAMENTO COUNTY, ET AL. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 13–6551. RAMOS *v.* CHAPPIUS, SUPERINTENDENT, ELMIRA CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied. Reported below: 726 F. 3d 284.

No. 13–6590. SIGMON *v.* HILLEN TIRE ET AL. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 759 and 766.

No. 13–6609. DEMPSEY *v.* EAGLETON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 225.

No. 13–6611. COWAN *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 13–6648. HARRIS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6668. MEEK *v.* BERGH, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 530.

No. 13–6672. THOMAS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–6696. TRUESDELL *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 194, 304 P. 3d 396.

No. 13–6701. GABLE *v.* OREGON. Sup. Ct. Ore. Certiorari denied. Reported below: 353 Ore. 750, 305 P. 3d 85.

No. 13–6715. BOETTLIN *v.* FISHER, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SMITHFIELD, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 867.

No. 13–6726. STRAWDER *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6728. KACHINA *v.* ROY, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Certiorari denied.

No. 13–6738. WIGGINS *v.* DONLEY, SECRETARY OF THE AIR FORCE. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 130.

No. 13–6742. KIM *v.* INTERNAL REVENUE SERVICE. C. A. 3d Cir. Certiorari denied. Reported below: 522 Fed. Appx. 157.

No. 13–6750. POTES *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6760. SEALED APPELLANT *v.* SEALED APPELLEE ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–6774. MAULDIN *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6779. ADAMS *v.* MCCALL, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 316.

No. 13–6785. WEEKS *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 106 So. 3d 954.

No. 13–6793. OSTEEN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 353.

No. 13–6797. CALDWELL *v.* ROMERO ET AL. C. A. D. C. Cir. Certiorari denied.

No. 13–6799. BISHOP *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 910.

No. 13–6801. BANKS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6803. WERBER *v.* BUNTING, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6805. CALLEN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 252.

No. 13–6807. CAPOZZI *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 723 F. 3d 720.

No. 13–6808. RODRIGUEZ-ARANDA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 341.

No. 13–6810. SEDA-ARROYO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–6811. RIDDELL *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 13–6812. MEJIA-GONZALEZ *v.* UNITED STATES (Reported below: 536 Fed. Appx. 454); OGBONU *v.* UNITED STATES (539 Fed. Appx. 389); SANCHEZ *v.* UNITED STATES (539 Fed. Appx. 349); and ARTEAGA-MARTINEZ *v.* UNITED STATES (539 Fed. Appx. 382). C. A. 5th Cir. Certiorari denied.

No. 13–6813. JETER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 721 F. 3d 746.

No. 13–6814. KOMAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 28.

No. 13–6815. LEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6825. CREDICO *v.* 15TH JUDICIAL DISTRICT ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6826. CREDICO *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied.

No. 13–6828. GONZALEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6829. FRIDIE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 217.

No. 13–6831. GILES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 181.

No. 13–6835. HOLMES *v.* OHIO. Ct. App. Ohio, 5th App. Dist., Coshocton County. Certiorari denied.

No. 13–6841. JAVIER ESTRADA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6847. WESTCOTT *v.* PHELPS, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6850. VALDES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6854. NDHLOVU *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 842.

No. 13–6855. PATTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6856. NAVA-ARELLANO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 635.

No. 13–6858. ALLEN *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–6861. COLLINS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 715 F. 3d 1032.

No. 13–6864. WILLIAMS *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6865. TRUONG NGUYEN *v.* GLEBE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6866. DAVIS *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 4. Certiorari denied. Reported below: 214 Cal. App. 4th 1322, 155 Cal. Rptr. 3d 128.

No. 13–6868. MASON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 432.

No. 13–6875. SPENCE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 721 F. 3d 1224.

No. 13–6877. SMITH *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 721 F. 3d 904.

No. 13–6878. WHITE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 390.

No. 13–6879. VALDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 396.

No. 13–6880. TROTTER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 501.

No. 13–6881. MORAZAN-ALVAREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 363.

No. 13–6883. IRONS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 221.

No. 13–6884. D'ANGELO *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 524 Fed. Appx. 700.

No. 13–6888. GRAVATT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 300.

No. 13–6889. SCARNATI *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 103.

No. 13–6891. SANDERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 232.

No. 13–6893. DAVIS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 97.

No. 13–6898. PIPE-BEGAY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 775.

No. 13–6901. WINBUSH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 914.

No. 13–6905. MEDINA-VASQUEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–6906. ORONA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 724 F. 3d 1297.

No. 13–6907. GRISSETTE *v.* WESTBROOKS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6911. OMARES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6912. DEAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 479 Fed. Appx. 513.

No. 13–6914. BATCHU *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 724 F. 3d 1.

No. 13–6915. ARREOLA-JIMENEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 717.

No. 13–6916. THROWER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 579.

No. 13–6918. CASTELLANO-VEGA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–6921. DIGNAM *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 915.

No. 13–6923. JACKSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6928. RAMIREZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 642.

No. 13–6933. CRUZ MARTINEZ *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6934. JONES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 40.

No. 13–6938. BURNS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6939. VAUGHN *v.* ILLINOIS. App. Ct. Ill., 4th Dist. Certiorari denied. Reported below: 2013 IL App (4th) 110925–U.

No. 13–6941. VALDEZ *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 723 F. 3d 206.

No. 13–6943. HUDGINS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6961. RAWLS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6962. GEAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 81.

No. 13–6973. KING *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 789.

No. 13–6974. LEWIS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–6992. SOLIS-SANCHEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 769.

No. 13–6993. RABIU *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 721 F. 3d 467.

No. 13–6996. VILLARREAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 723 F. 3d 609.

No. 13–6998. MCDUFFIE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6999. WILKINSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 874.

No. 13–7001. WIAND *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 332.

No. 13–7003. WATSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 232.

No. 13–7007. GARCIA-SEGURA *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 717 F. 3d 566.

No. 13–7008. GONZALES-HINOJOSA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 437.

No. 13–7010. BARRIOS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7013. CARRIGAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 724 F. 3d 39.

No. 13–7015. KEGLAR *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 494.

No. 13–7017. LOFFREDI *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 718 F. 3d 991.

No. 13–7021. WHITING *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 556.

No. 13–7022. TAYLOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 314.

No. 13–7026. WEATHERSBY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 987.

No. 13–7033. MCDANIEL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 561.

No. 13–7041. LEWIS ET AL. *v.* WAXAHACHIE DAILY LIGHT ET AL. Ct. App. Tex., 10th Dist. Certiorari denied.

No. 12–1480. RAPELJE *v.* MCCLELLAN. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 703 F. 3d 344.

JUSTICE ALITO, with whom JUSTICE SCALIA joins, dissenting.

The decision of the United States Court of Appeals for the Sixth Circuit in this case was based on a serious misreading of our decision in *Harrington* v. *Richter*, 562 U. S. 86 (2011), and if left uncorrected, it is likely to interfere with the proper handling of a significant number of federal habeas petitions filed by Michigan prisoners. Under *Harrington*, when a state court summarily rejects an appeal without clearly indicating whether the disposition was based on the merits of the claims presented or instead on procedural grounds, a federal habeas court must presume that the decision was on the merits, but the presumption may be overcome under certain circumstances. *Id.*, at 99–100. By contrast, when the state court makes it clear that a summary disposition was on the merits, *Harrington*'s rebuttable presumption has no application. A federal court may not probe beyond the state court's order to inquire whether the court accurately characterized its own decision.

In this case, the Sixth Circuit overlooked that important rule. The panel majority relied on a prior Sixth Circuit decision that had recognized—based on a long line of Michigan Court of Ap-

peals cases—that the form of order used by the Michigan Court of Appeals in the present case invariably reflects a disposition on the merits. But the panel understood that prior decision nevertheless to allow it to look past the order to determine whether the state appellate court had meant what it said and actually based its disposition on the merits.

This was a fundamental error—and an important one. I would therefore grant the petition for a writ of certiorari.

I

Respondent was convicted of first-degree murder in Michigan state court and was sentenced to life in prison. The Michigan Court of Appeals affirmed his conviction, and the Supreme Court of Michigan denied leave to appeal. Respondent then sought postconviction relief from a Michigan trial court, raising for the first time certain claims that his trial counsel had provided constitutionally ineffective assistance. The trial court held that those claims were procedurally defaulted and that respondent had failed to show cause or prejudice to excuse the default. Respondent requested leave to appeal, and the Michigan Court of Appeals denied his application "for lack of merit in the grounds presented."* App. to Pet. for Cert. 84a.

Respondent then filed a petition for habeas corpus in the United States District Court for the Eastern District of Michigan, and he requested that the court hold an evidentiary hearing on his ineffective-assistance-of-counsel claims. A federal evidentiary hearing is permissible for a particular claim only if, among other requirements, the claim was not "adjudicated on the merits by a state court." *Cullen* v. *Pinholster*, 563 U. S. 170, 185 (2011). If it was, a state prisoner is limited to "the record that was before that state court" in seeking federal habeas relief. *Ibid.*

*After the Court of Appeals entered its order, the Michigan Supreme Court denied leave to appeal in an order stating that respondent had "failed to meet the burden of establishing entitlement to relief under [Michigan Court Rule] 6.508(D)." *People* v. *McClellan*, 480 Mich. 1006, 742 N. W. 2d 367 (2007). The Sixth Circuit, en banc, has ruled that under Michigan law such orders are ambiguous "because holdings from the Michigan courts indicate that the language used by such summary orders [*i. e.*, orders citing Michigan Court Rule 6.508(D)] can refer to the petitioner's failure to establish entitlement to relief either on the merits or procedurally." *Guilmette* v. *Howes*, 624 F. 3d 286, 289–290 (2010). Neither party argues otherwise before this Court.

The District Court held that no state court had adjudicated respondent's ineffective-assistance-of-counsel claims on the merits and that therefore an evidentiary hearing on those claims was proper. Based on evidence produced at that hearing, the District Court found cause and prejudice to excuse respondent's failure to raise the claims on direct appeal of his conviction, see *Coleman* v. *Thompson*, 501 U. S. 722, 750 (1991), and decided that respondent's trial counsel had been constitutionally ineffective. As a result, the District Court granted habeas relief.

Petitioner appealed, and a divided panel of the Sixth Circuit affirmed, holding that the Michigan Court of Appeals' decision in the postconviction appeal had not been on the merits. 703 F. 3d 344 (2013). The panel majority based its holding on a recent Sixth Circuit decision, *Werth* v. *Bell*, 692 F. 3d 486 (2012). There, the court considered the meaning of a Michigan Court of Appeals order identical to the one at issue here. Citing Michigan Court of Appeals precedents, the *Werth* panel stated unequivocally that the language in the order signifies a disposition "'on the merits' as a matter of Michigan law." *Id.*, at 494 (quoting *People* v. *Collier*, 2005 WL 1106501, *1 (May 10, 2005) (*per curiam*)). The *Werth* panel then held that the order represented a merits adjudication, although it first noted that no other provision of Michigan law, and nothing about the specific background of the case, gave reason to believe that the disposition had not been on the merits. 692 F. 3d, at 494.

The panel majority in the case now before us interpreted *Werth* to mean that it is proper for a federal habeas court to disregard the form of order issued by the Michigan Court of Appeals and apply *Harrington*'s rebuttable presumption. Proceeding in this way, the panel majority held that respondent had rebutted that presumption because (1) the last reasoned state-court decision (by the Michigan trial court) had rested solely on respondent's procedural default, see *Ylst* v. *Nunnemaker*, 501 U. S. 797, 803 (1991), and (2) the Michigan Court of Appeals did not have the trial court's record before it when it issued its ruling.

Because the Sixth Circuit determined that no state court had adjudicated respondent's federal claims on the merits, it held that the District Court had not erred in holding an evidentiary hearing on those claims. See 703 F. 3d, at 351 (citing *Pinholster*, *supra*). And based on evidence that respondent had presented at the federal hearing, the Sixth Circuit affirmed the District Court's

holdings that respondent had demonstrated cause and prejudice to excuse procedural default; that his trial counsel had been ineffective; and that, as a result, he was entitled to habeas relief.

Judge McKeague dissented. He concluded that "[t]he Michigan Court of Appeals' denial of [respondent's] claims 'for lack of merit [in] the grounds presented' was a merits adjudication" and therefore that "the federal district court was limited to considering the record before the Michigan Court of Appeals at the time that court rendered its decision." 703 F. 3d, at 351. He argued that "Michigan courts have 'consistently held that denial of an application "for lack of merit in the grounds presented" is a decision on the merits of the issues raised.'" *Id.*, at 355 (quoting *Collier*, *supra*, at *1).

II

As noted, the Sixth Circuit has previously acknowledged that the form of order at issue here represents a disposition "on the merits as a matter of Michigan law." *Werth*, *supra*, at 494 (internal quotation marks omitted). Yet the panel majority in the present case, while purporting to follow that precedent, held that the Michigan Court of Appeals did not adjudicate respondent's ineffective-assistance-of-counsel claims on the merits. That holding cannot be reconciled with *Harrington*. The *Harrington* rebuttable presumption comes into play only when a state court's order is ambiguous. When state courts have adopted a phrase to denote a decision on the merits, federal courts may not deem the courts' use of that language to be anything other than an adjudication on the merits. After all, "federal courts have no authority to impose mandatory opinion-writing standards on state courts." *Johnson* v. *Williams*, 568 U. S. 289, 300 (2013).

Here, petitioner persuasively argues that the form of order used by the Michigan Court of Appeals reflects a merits adjudication under settled Michigan law. For over 30 years, petitioner tells us, that court has "consistently held that denial of an application 'for lack of merit in the grounds presented' is a decision on the merits of the issues raised." Pet. for Cert. 12 (quoting *Collier*, *supra*, at *1, in turn citing *People* v. *Hayden*, 132 Mich. App. 273, 348 N. W. 2d 672 (1984); *People* v. *Douglas*, 122 Mich. App. 526, 332 N. W. 2d 521 (1983); *People* v. *Wiley*, 112 Mich. App. 344, 315 N. W. 2d 540 (1981)). See also *Attorney General ex rel. Dept. of Treasury* v. *Great Lakes Real Estate Inv. Trust*, 77 Mich. App. 1, 2–4, 257 N. W. 2d 248, 249 (1977). There is no dispute that

respondent's ineffective-assistance-of-counsel claims were "issues raised" by him before the Michigan Court of Appeals. See 703 F. 3d, at 350, n. 4. Accordingly, if this interpretation of Michigan law is correct, it is clear that the court's order was a decision on the merits of those claims.

If that order was on the merits, then the District Court was precluded from holding an evidentiary hearing on respondent's ineffective-assistance-of-counsel claims, see *Pinholster*, 563 U. S., at 184–187, and, in turn, the District Court and Sixth Circuit were not permitted to consider evidence presented at the evidentiary hearing in evaluating those claims. Rather, respondent could have prevailed on his claims only if he could have demonstrated an entitlement to relief under 28 U. S. C. § 2254(d) on the state-court record.

In sum, the Sixth Circuit has gone astray in its analysis of habeas cases in which the Michigan Court of Appeals denies review using the form of order at issue here. And this error may derail many Michigan habeas cases. I can understand the Court's reluctance to decide what the form of order at issue means under Michigan law. But I would grant the petition and vacate the decision below because the Sixth Circuit made a severe error of federal law. On remand, I would direct the Sixth Circuit to decide whether, as another panel of that court clearly stated, the form of order at issue represents a merits disposition. If so, the *Harrington* presumption has no place in the court's analysis.

For these reasons, I respectfully dissent from the denial of the petition for a writ of certiorari.

No. 13–79. WINKAL HOLDINGS, LLC, ET AL. *v.* JPMORGAN CHASE BANK, N. A., ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 505 Fed. Appx. 674.

No. 13–169. MARTIN *v.* BLESSING ET AL. C. A. 2d Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 507 Fed. Appx. 1.

Statement of JUSTICE ALITO, respecting the denial of the petition for writ of certiorari.

The petition in this case challenges a highly unusual practice followed by one District Court Judge in assessing the adequacy

of counsel in class actions. This judge insists that class counsel "ensure that the lawyers staffed on the case fairly reflect the class composition in terms of relevant race and gender metrics." App. to Pet. for Cert. 35a. The uniqueness of this practice weighs against review by this Court, but the meaning of the Court's denial of the petition should not be misunderstood.

I

In 2008, the Nation's only two providers of satellite digital audio radio services, Sirius Satellite Radio, Inc., and XM Satellite Holdings, Inc., merged to form a new company, Sirius XM Radio, Inc. (Sirius). *Id.*, at 8a–9a. Their subscribers claimed the merger violated antitrust laws and filed several class actions that were joined in a consolidated complaint and assigned to Judge Harold Baer, Jr., of the Southern District of New York. Judge Baer appointed three law firms to serve as interim class counsel. *Ibid.*

In July 2010, class plaintiffs moved to certify a federal antitrust class. *Ibid.* Class certification is governed by Federal Rule of Civil Procedure 23, which sets out the requirements that a putative class must meet to gain certification. One such requirement is adequate class counsel; subsection (g) orders the district court to consider four particular indicators of adequacy. It provides also that the district court "may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class." Fed. Rule Civ. Proc. 23(g)(1)(B).

Citing that provision, Judge Baer ordered that the three law firms appointed as interim counsel (and subsequently elevated to permanent counsel) "ensure that the lawyers staffed on the case fairly reflect the class composition in terms of relevant race and gender metrics." App. to Pet. for Cert. 35a.

Class certification orders that impose race- and sex-based staffing requirements on law firms appear to be part of Judge Baer's standard practice. In 2007, Judge Baer followed this practice in considering certification of a class of plaintiffs seeking redress under the Employee Retirement Income Security Act. See *In re J. P. Morgan Chase Cash Balance Litigation*, 242 F. R. D. 265, 277 (SDNY 2007).

Three years later, in *Spagnola* v. *Chubb Corp.*, 264 F. R. D. 76 (SDNY 2010), Judge Baer refused to certify a putative class of

insurance policyholders in part because of the race and gender of the proposed class counsel. He noted that "proposed . . . counsel . . . ha[d] provided no information—firm resumé, attorney biographies, or otherwise—[regarding the race or gender of the lawyers assigned to the case]." *Id.*, at 95, n. 23.

Judge Baer has repeated this practice in at least three additional class actions apart from the one before the Court today. See *Public Employees' Retirement System of Miss.* v. *Goldman Sachs Group, Inc.*, 280 F. R. D. 130, 142, n. 6 (SDNY 2012); *New Jersey Carpenters Health Fund* v. *Residential Capital, LLC*, 2012 WL 4865174, *5, n. 5 (SDNY, Oct. 15, 2012); *In re Gildan Activewear Inc. Securities Litigation*, No. 08 Civ. 5048 (SDNY, Sept. 20, 2010).

Following certification in the present case, Sirius and class counsel reached a settlement that drew objections. Under the deal, Sirius would freeze its prices for five months and pay class counsel $13 million in attorney's fees. *Blessing* v. *Sirius XM Radio Inc.*, 507 Fed. Appx. 1, 3, 4 (CA2 2012). Sirius would pay no cash to class members. *Ibid.* Nicolas Martin, a class member and petitioner here, objected, not only to those terms, but also to Judge Baer's reliance on race and gender in assessing the adequacy of class counsel. Petitioner asked the Second Circuit to set aside the settlement as the tainted product of an invalid certification order. The Second Circuit rejected his challenge to the certification order on standing grounds, concluding that Martin failed to allege injury in fact. Martin now asks this Court to intervene.

II

Based on the materials now before us, I am hard pressed to see any ground on which Judge Baer's practice can be defended. This Court has often stressed that "[r]acial discrimination has no place in the courtroom, whether the proceeding is civil or criminal." *Edmonson* v. *Leesville Concrete Co.*, 500 U. S. 614, 630 (1991). Court-approved discrimination based on gender is similarly objectionable, and therefore it is doubtful that the practice in question could survive a constitutional challenge.

Before reaching this constitutional question, however, a court would have to consider whether the challenged practice can be reconciled with Rule 23(g), which carefully regulates the appointment of class counsel. The appointment of class counsel is a

sensitive matter. Because of the fees that class counsel may receive—witness the present case in which counsel was awarded $13 million for handling a case in which the class members received no compensation—any deviation from the criteria set out in the Rule may give rise to suspicions about favoritism. There are more than 600 district judges, and it would be intolerable if each judge adopted a personalized version of the criteria set out in Rule 23(g).

It is true that Rule 23 allows a district court to consider "any . . . matter pertinent to counsel's ability to fairly and adequately represent the interests of the class," Rule 23(g)(1)(B), but I doubt that this provision can be stretched to justify the practice at issue here. It seems quite farfetched to argue that class counsel cannot fairly and adequately represent a class unless the race and gender of counsel mirror the demographics of the class. Indeed, if the District Court's rule were taken seriously, it would seriously complicate the appointment process and lead to truly bizarre results.

It may be no easy matter to ascertain "the class composition in terms of relevant race and gender metrics." In some cases, only the defendant will possess such information, and where that is so, must the parties engage in discovery on this preliminary point? In other cases, it may be impossible to obtain the relevant information without requesting it from all of the members of the class. For example, in a securities case in which the class consists of everyone who purchased the stock of a particular company during a specified period, how else could the race or gender of the class members be ascertained?

Where the demographics of the class can be ascertained or approximated, faithful application of the District Court's rule would lead to strange results. The racial and ethnic makeup of the plaintiff class in many cases deviates significantly from the racial and ethnic makeup of the general population or of the bar. Suppose, for example, that the class consisted of persons who had undergone a particular type of treatment for prostate cancer. Would it be proper for a district judge to favor law firms with a high percentage of male attorneys? Or if the class consisted of persons who had undergone treatment for breast cancer, would it be permissible for a court to favor firms with a high percentage of female lawyers? In some cases, the members of a class may be significantly more affluent than the general population. (A

class consisting of the purchasers of stock may be an example.) To the extent that affluence correlates with race, would it be proper for a district judge in such a case to favor law firms with relatively low minority representation?

The Second Circuit did not decide whether the District Court's practice is unconstitutional or otherwise unlawful because the court held that Martin lacked standing to challenge the order at issue. Martin did not allege that he actually received inferior representation, and therefore the Second Circuit, invoking the standard used to determine whether a plaintiff has standing under Article III of the Constitution, refused to entertain Martin's objection on the ground that he had suffered no injury in fact. I find this reasoning debatable.

It is not clear that a class member who objects to a feature of a proposed settlement must show that the feature in question would cause the objecting member the sort of harm that is needed to establish Article III standing. Article III demands that the members of the plaintiff class demonstrate that they were injured in fact by the alleged antitrust violations, see *Amchem Products, Inc.* v. *Windsor*, 521 U. S. 591, 613 (1997), but the plaintiff class' satisfaction of this requirement is not challenged. At issue, instead, is Martin's ability to object to the proposed settlement, and Rule 23(e)(5) states without qualification that "[a]ny class member may object" to a proposed settlement requiring court approval. I assume for present purposes that a court need not entertain the objection of a class member who is not aggrieved by a settlement, but it is by no means clear to me that this is the same as requiring proof of an injury in fact within the meaning of Article III. See *Devlin* v. *Scardelletti*, 536 U. S. 1, 6–7 (2002) (an objecting class member "has an interest in the settlement that creates a 'case or controversy' sufficient to satisfy the constitutional requirements of injury, causation, and redressability").

Whether or not Martin suffered injury in fact in the Article III sense, he unquestionably has a legitimate interest in ensuring that class counsel is appointed in a lawful manner. *Ibid.* The use of any criteria not set out specifically in Rule 23(g) or "pertinent to counsel's ability to fairly and adequately represent the interests of the class" creates a risk of injury that a class member should not have to endure. And class members have a strong and legitimate interest in having *their* attorneys appointed pursu-

ant to a practice that is free of unlawful discrimination. If a district judge had a practice of appointing only attorneys of a particular race or gender, would an appellate court refuse to entertain a class member's objection unless the class member could show that the attorney in question did a poor job?

Unlike the courts of appeals, we are not a court of error correction, and thus I do not disagree with the Court's refusal to review the singular policy at issue here. I stress, however, that the "denial of certiorari does not constitute an expression of any opinion on the merits." *Boumediene* v. *Bush*, 549 U. S. 1328, 1329 (2007) (Stevens and KENNEDY, JJ., statement respecting denial of certiorari). If the challenged appointment practice continues and is not addressed by the Court of Appeals, future review may be warranted.

No. 13–204. DZURENDA, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION *v.* GONZALEZ (Reported below: 308 Conn. 463, 68 A. 3d 624); and DZURENDA, COMMISSIONER, CONNECTICUT DEPARTMENT OF CORRECTION *v.* HUERTAS (308 Conn. 516, 64 A. 3d 766). Sup. Ct. Conn. Motions of respondents for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 13–383. ALBRIGHT ET AL. *v.* EXXON MOBIL CORP. Ct. App. Md. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 433 Md. 303, 71 A. 3d 30.

No. 13–460. OWUSU-ANSAH *v.* COCA-COLA CO. C. A. 11th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 715 F. 3d 1306.

No. 13–5380. WOODWARD *v.* ALABAMA. Ct. Crim. App. Ala. Certiorari denied. Reported below: 123 So. 3d 989.

JUSTICE SOTOMAYOR, with whom JUSTICE BREYER joins as to Parts I and II, dissenting.

The jury that convicted Mario Dion Woodward of capital murder voted 8 to 4 against imposing the death penalty. But the trial judge overrode the jury's decision and sentenced Woodward to death after hearing new evidence and finding, contrary to the jury's prior determination of the same question, that the aggravating circumstances outweighed the mitigating circumstances.

The judge was statutorily entitled to do this under Alabama law, which provides that a jury's decision as to whether a defendant should be executed is merely an "advisory verdict" that the trial judge may override if she disagrees with the jury's conclusion. In the last decade, Alabama has been the only State in which judges have imposed the death penalty in the face of contrary jury verdicts. Since Alabama adopted its current statute, its judges have imposed death sentences on 95 defendants contrary to a jury's verdict.[1] Forty-three of these defendants remain on death row today. Because I harbor deep concerns about whether this practice offends the Sixth and Eighth Amendments, I would grant Woodward's petition for certiorari so that the Court could give this issue the close attention that it deserves.

I

A

In Alabama, a defendant convicted of capital murder is entitled to an evidentiary sentencing hearing before a jury. Ala. Code §§ 13A–5–45, 13A–5–46 (2005). At that hearing, the State must prove beyond a reasonable doubt the existence of at least one aggravating circumstance; otherwise, the defendant cannot be sentenced to death and instead receives a sentence of life imprisonment without parole. §§ 13A–5–45(e), (f). The defendant may present mitigating circumstances, which the State may seek to disprove by a preponderance of the evidence. § 13A–5–45(g). If it has found at least one aggravating circumstance, the jury then weighs the aggravating and mitigating evidence and renders its advisory verdict. If it finds that the aggravating circumstances do not outweigh the mitigating circumstances, the jury must return a life-without-parole verdict; if it finds that the aggravating circumstances do outweigh the mitigating circumstances, it must return a death verdict. § 13A–5–46(e). A life-without-parole verdict requires a vote of a majority of the jurors, while a death verdict requires a vote of at least 10 jurors. § 13A–5–46(f).

[1] A list of these 95 defendants sentenced to death after a jury verdict of life imprisonment is produced in an appendix to this opinion. By contrast, where juries have voted to impose the death penalty, Alabama judges have overridden that verdict in favor of a life sentence only nine times.

After the jury returns its advisory verdict, the trial judge makes her own determination whether the aggravating circumstances outweigh the mitigating circumstances and imposes a sentence accordingly. § 13A–5–47. Alabama's statute provides that "[w]hile the jury's recommendation concerning [the] sentence shall be given consideration, it is not binding upon the court." § 13A–5–47(e).

B

Woodward was convicted of capital murder for fatally shooting Keith Houts, a city of Montgomery police officer. By a vote of 8 to 4, the jury determined that the aggravating circumstances shown by the State did not outweigh the mitigating circumstances presented by the defense. It therefore recommended a sentence of life imprisonment without parole.

The trial judge conducted his own sentencing proceeding. At that hearing, the State presented additional evidence concerning the mitigating circumstances presented to the jury. The trial judge, in part on the basis of the new evidence, rejected the jury's finding. Making his own determination that the aggravating circumstances outweighed the mitigating circumstances, the judge imposed the death penalty, thereby overriding the jury's prior advisory verdict of life without parole. The Alabama Court of Criminal Appeals affirmed Woodward's conviction and sentence, 123 So. 3d 989 (2012), and the Alabama Supreme Court denied certiorari.

II

This Court has long acknowledged that death is fundamentally different in kind from any other punishment. See *Furman* v. *Georgia*, 408 U. S. 238, 286–291 (1972) (Brennan, J., concurring); *Gregg* v. *Georgia*, 428 U. S. 153, 188 (1976) (joint opinion of Stewart, Powell, and Stevens, JJ.). For that reason, we have required States to apply special procedural safeguards to "minimize the risk of wholly arbitrary and capricious action" in imposing the death penalty. *Id.*, at 189, 195 (joint opinion of Stewart, Powell, and Stevens, JJ.); see also *Ring* v. *Arizona*, 536 U. S. 584, 614 (2002) (BREYER, J., concurring in judgment) (explaining that without adequate procedural safeguards, "the constitutional prohibition against 'cruel and unusual punishments' would forbid [the]

use" of the death penalty). One such safeguard, as determined by the vast majority of States, is that a jury, and not a judge, should impose any sentence of death.[2]

Of the 32 States that currently authorize capital punishment, 31 require jury participation in the sentencing decision; only Montana leaves the jury with no sentencing role in capital cases. See Mont. Code Ann. §§ 46–18–301, 46–18–305 (2013). In 27 of those 31 States, plus the federal system, 18 U. S. C. § 3593, the jury's decision to impose life imprisonment is final and may not be disturbed by the trial judge under any circumstance. That leaves four States in which the jury has a role in sentencing but is not the final decisionmaker. In Nebraska, the jury is responsible for finding aggravating circumstances, while a three-judge panel determines mitigating circumstances and weighs them against the aggravating circumstances to make the ultimate sentencing decision. See Neb. Rev. Stat. §§ 29–2520, 29–2521 (2008). Three States—Alabama, Delaware, and Florida—permit the trial judge to override the jury's sentencing decision.

In *Spaziano* v. *Florida*, 468 U. S. 447 (1984), we upheld Florida's judicial-override sentencing statute. And in *Harris* v. *Alabama*, 513 U. S. 504 (1995), we upheld Alabama's similar statute. Eighteen years have passed since we decided *Harris*, and in my view, the time has come for us to reconsider that decision. Cf. *Roper* v. *Simmons*, 543 U. S. 551, 555 (2005) (reconsidering after 16 years the issue decided in *Stanford* v. *Kentucky*, 492 U. S. 361 (1989)); *Atkins* v. *Virginia*, 536 U. S. 304, 307 (2002) (reconsidering after 13 years the issue decided in *Penry* v. *Lynaugh*, 492 U. S. 302 (1989)).

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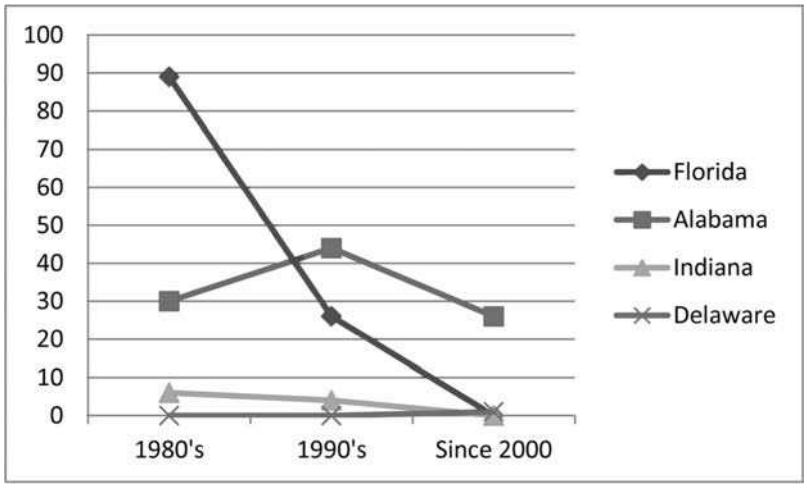
[2] It is perhaps unsurprising that the national consensus has moved toward a capital sentencing scheme in which the jury is responsible for imposing capital punishment. Because "'capital punishment is an expression of society's moral outrage at particularly offensive conduct,'" *Harris* v. *Alabama*, 513 U. S. 504, 518 (1995) (Stevens, J., dissenting), jurors, who "express the conscience of the community on the ultimate question of life or death," *Witherspoon* v. *Illinois*, 391 U. S. 510, 519 (1968), seem best positioned to decide whether the need for retribution in a particular case mandates imposition of the death penalty. See *Harris*, 513 U. S., at 518 (Stevens, J., dissenting) ("A capital sentence expresses the community's judgment that no lesser sanction will provide an adequate response to the defendant's outrageous affront to humanity").

In the nearly two decades since we decided *Harris*, the practice of judicial overrides has become increasingly rare. In the 1980's, there were 125 life-to-death overrides: 89 in Florida, 30 in Alabama, and 6 in Indiana. In the 1990's, there were 74: 26 in Florida, 44 in Alabama, and 4 in Indiana.[3] Since 2000, by contrast, there have been only 27 life-to-death overrides, 26 of which were by Alabama judges.[4]



As these statistics demonstrate, Alabama has become a clear outlier. Among the four States that permitted judicial overrides at the time of *Harris*, Alabama now stands as the only one in which judges continue to override jury verdicts of life without parole. One of the four States, Indiana, no longer permits life-to-death judicial overrides at all. See Ind. Code § 35–50–2–9(e) (2004). Only one defendant in Delaware has ever been condemned to death by a judicial life-to-death override, and the Delaware Supreme Court overturned his sentence.[5] And no Florida

[3] See Radelet, Overriding Jury Sentencing Recommendations in Florida Capital Cases: An Update and Possible Half-Requiem, 2011 Mich. State L. Rev. 793, 818 (2011) (listing overrides in Indiana); *id.*, at 828 (listing overrides in Florida); *id.*, at 825–827 (listing overrides in Alabama).

[4] The 27th death sentence by judicial override, which occurred in Delaware, was eventually reduced to a life sentence. See n. 5, *infra*.

[5] One Delaware judge has used the override to impose a death sentence in two cases involving the same defendant. On appeal, the Delaware Supreme

judge has overridden a jury's verdict of a life sentence since 1999.[6] In sum, whereas judges across three States overrode roughly 10 jury verdicts per year in the 1980's and 1990's, a dramatic shift has taken place over the past decade: Judges now override jury verdicts of life in just a single State, and they do so roughly twice a year.

What could explain Alabama judges' distinctive proclivity for imposing death sentences in cases where a jury has already rejected that penalty? There is no evidence that criminal activity is more heinous in Alabama than in other States, or that Alabama juries are particularly lenient in weighing aggravating and mitigating circumstances. The only answer that is supported by empirical evidence is one that, in my view, casts a cloud of illegitimacy over the criminal justice system: Alabama judges, who are elected in partisan proceedings, appear to have succumbed to electoral pressures. See Symposium, Politics and the Death Penalty: Can Rational Discourse and Due Process Survive the Perceived Political Pressure? 21 Ford. Urban L. J. 239, 256 (1994) (comments of Bryan Stevenson) (concluding, based on "a mini-multiple regression analysis of how the death penalty is applied and how override is applied, [that] there is a statistically significant correlation between judicial override and election years in most of the counties where these overrides take place"); see also Equal Justice Initiative, The Death Penalty in Alabama: Judge Override 16, http://eji.org/files/Override_Report.pdf (as visited on Nov. 15, 2013, and available in Clerk of Court's case file) (hereinafter Override Report) (noting that the proportion of death sentences imposed by override in Alabama is elevated in election years). One

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Court twice vacated the death sentence, and ultimately ordered the trial court to impose a life sentence. See *Garden* v. *State*, 815 A. 2d 327, 331–333 (2003); *Garden* v. *State*, 844 A. 2d 311, 318 (2004) (*per curiam*).

[6] Even after this Court upheld Florida's capital sentencing scheme in *Spaziano* v. *Florida*, 468 U. S. 447 (1984), the practice of judicial overrides consistently declined in that State. Since 1972, 166 death sentences have been imposed in Florida following a jury recommendation of life imprisonment. Between 1973 and 1989, an average of eight people was sentenced to death on an override each year. That average number dropped by 50 percent between 1990 and 1994, and by an additional 70 percent from 1995 to 1999. The practice then stopped completely. It has been more than 14 years since the last life-to-death override in Florida; the last person sentenced to death after a jury recommendation of life imprisonment was Jeffrey Weaver, sentenced in August 1999.

Alabama judge, who has overridden jury verdicts to impose the death penalty on six occasions, campaigned by running several advertisements voicing his support for capital punishment. One of these ads boasted that he had "'presided over more than 9,000 cases, including some of the most heinous murder trials in our history,'" and expressly named some of the defendants whom he had sentenced to death, in at least one case over a jury's contrary judgment. *Ibid.* With admirable candor, another judge, who has overridden one jury verdict to impose death, admitted that voter reaction does "'have some impact, especially in high-profile cases.'" Velasco, More Judges Issue Death Despite Jury, Birmingham News, July 17, 2011, p. 12A. "'Let's face it,'" the judge said, "'we're human beings. I'm sure it affects some more than others.'" *Ibid.* Alabama judges, it seems, have "ben[t] to political pressures when pronouncing sentence in highly publicized capital cases." *Harris*, 513 U. S., at 520 (Stevens, J., dissenting).

By permitting a single trial judge's view to displace that of a jury representing a cross-section of the community, Alabama's sentencing scheme has led to curious and potentially arbitrary outcomes. For example, Alabama judges frequently override jury life-without-parole verdicts even in cases where the jury was unanimous in that verdict.[7] In many cases, judges have done so without offering a meaningful explanation for the decision to disregard the jury's verdict. In sentencing a defendant with an IQ of 65, for example, one judge concluded that "'[t]he sociological literature suggests Gypsies intentionally test low on standard IQ tests.'"[8] Override Report 20 (quoting Sentencing Order in *State* v. *Neal*, No. 87–520 (Baldwin Cty. Cir. Ct., May 17, 1990)). An-

[7] As recently as May 2011, an Alabama judge overrode a 12-to-0 jury verdict to sentence Courtney Lockhart to death. Lockhart, a former army soldier and Iraq war veteran, was convicted of murdering a college student, Lauren Burk. The jury recommended life imprisonment without the possibility of parole, influenced by mitigating circumstances relating to severe psychological problems Lockhart suffered as a result of his combat in Iraq. (Lockhart spent 16 months in Iraq; 64 of the soldiers in his brigade never made it home, including Lockhart's best friend. The soldiers who survived all exhibited signs of posttraumatic stress disorder and other psychological conditions. Twelve of them have been arrested for murder or attempted murder.) The trial judge nonetheless imposed the death penalty.

[8] After this sentence was reversed on appeal, the State agreed that the defendant was exempt from the death penalty because he is mentally retarded. Override Report 20.

other judge, who was facing reelection at the time he sentenced a 19-year-old defendant, refused to consider certain mitigating circumstances found by the jury, which had voted to recommend a life-without-parole sentence. He explained his sensitivity to public perception as follows: "'If I had not imposed the death sentence, I would have sentenced three black people to death and no white people.'" Override Report 20 (quoting Tr. of Sentencing Hearing in *State* v. *Waldrop*, No. 98–162 (Randolph Cty. Cir. Ct., July 25, 2000)). These results do not seem to square with our Eighth Amendment jurisprudence, see *Furman*, 408 U. S., at 274 (Brennan, J., concurring) ("In determining whether a punishment comports with human dignity, we are aided also by [the principle] that the State must not arbitrarily inflict a severe punishment"); *Gregg*, 428 U. S., at 188 (joint opinion of Stewart, Powell, and Stevens, JJ.) ("*Furman* held that [the death penalty] could not be imposed under sentencing procedures that created a substantial risk that it would be inflicted in an arbitrary and capricious manner"), and they raise important concerns that are worthy of this Court's review.

III

There is a second reason why Alabama's sentencing scheme deserves our review. Since our decisions in *Spaziano* and *Harris*, our Sixth Amendment jurisprudence has developed significantly. Five years after we decided *Harris*, we held in *Apprendi* v. *New Jersey*, 530 U. S. 466 (2000), that the Sixth Amendment does not permit a defendant to be "expose[d] . . . to a penalty exceeding the maximum he would receive if punished according to the facts reflected in the jury verdict alone." *Id.*, at 483 (emphasis deleted). When "a State makes an increase in a defendant's authorized punishment contingent on the finding of fact," we explained, "that fact—no matter how the State labels it—must be found by a jury beyond a reasonable doubt." *Ring*, 536 U. S., at 602 (citing *Apprendi*, 530 U. S., at 482–483); see also *id.*, at 499 (SCALIA, J., concurring) ("[A]ll the facts which must exist in order to subject the defendant to a legally prescribed punishment *must* be found by the jury").

Two years later, we applied the *Apprendi* rule in *Ring* v. *Arizona* to invalidate Arizona's capital sentencing scheme, which permitted the trial judge to determine the presence of aggravating factors required for imposition of the death penalty. 536 U. S., at 609. We made clear that "[c]apital defendants, no less than

noncapital defendants, . . . are entitled to a jury determination of any fact on which the legislature conditions an increase in their maximum punishment." *Id.*, at 589. And we overruled our earlier decision in *Walton* v. *Arizona*, 497 U. S. 639 (1990), by holding that the jury—not the judge—must find an aggravating circumstance that is necessary for the imposition of the death penalty. *Ring*, 536 U. S., at 609. "Because Arizona's enumerated aggravating factors operate as 'the functional equivalent of an element of a greater offense,'" we explained, "the Sixth Amendment requires that they be found by a jury." *Ibid.* (quoting *Apprendi*, 530 U. S., at 494, n. 19).

The very principles that animated our decisions in *Apprendi* and *Ring* call into doubt the validity of Alabama's capital sentencing scheme. Alabama permits a defendant to present mitigating circumstances that weigh against imposition of the death penalty. See Ala. Code §§ 13A–5–51, 13A–5–52. Indeed, we have long held that a defendant has a constitutional right to present mitigating evidence in capital cases. See *Eddings* v. *Oklahoma*, 455 U. S. 104, 110 (1982). And a defendant is eligible for the death penalty in Alabama only upon a specific factual finding that any aggravating factors outweigh the mitigating factors he has presented. See Ala. Code §§ 13A–5–46(e), 13A–5–47(e). The statutorily required finding that the aggravating factors of a defendant's crime outweigh the mitigating factors is therefore necessary to impose the death penalty. It is clear, then, that this factual finding exposes the defendant to a greater punishment than he would otherwise receive: death, as opposed to life without parole. Under *Apprendi* and *Ring*, a finding that has such an effect must be made by a jury.

The facts of this case underscore why Alabama's statute might run afoul of *Apprendi* and *Ring*. After the State and Woodward presented evidence at the sentencing hearing, the jury found two aggravating factors, but it determined that the mitigating factors outweighed those aggravating factors, and it voted to recommend a sentence of life imprisonment without the possibility of parole. The judge then heard additional evidence before reweighing the aggravating and mitigating factors to reach the opposite conclusion from the jury. With respect to the first mitigating circumstance—Woodward's relationship with his children—the judge noted that he was "underwhelmed" by Woodward's family situation in light of the additional evidence that only he had heard.

App. to Pet. for Cert. 80 (amended sentencing order). Rejecting the conclusion that Woodward had a positive influence on the lives of his young children, the judge opined: "What young child does not adore a parent?" *Ibid.* The judge further reasoned that Woodward's criminal history rendered him a "very poor parenting role model." *Id.*, at 81. Moving to the second mitigating factor—Woodward's traumatic childhood—the judge concluded that the evidence of problems in Woodward's childhood did not "withstand close scrutiny." *Ibid.* He noted that "no documentation of abuse was introduced"; speculated that Woodward's "truncated academic career may well have been the result of his bringing weapons to school, not the result of family issues"; suggested that Woodward's mother did not actually send him to live with his abusive father because no mother would "sen[d] her children to live alone, unprotected with an abusive man"; and found that it "strain[ed] logic to accept the story that [Woodward's] father evicted him." *Ibid.* The judge opined that "[w]hile [Woodward's] childhood was not the stuff of fairytales, his youth appear[ed] more idyllic than those of others [Woodward] called to testify." *Ibid.* And he concluded that the aggravating factors "far outweigh[ed] the mitigating factors." *Id.*, at 82.[9] In other words, the judge imposed the death penalty on Woodward only because he disagreed with the jury's assessment of the facts.

Under our *Apprendi* jurisprudence, as it has evolved since *Harris* was decided, a sentencing scheme that permits such a result is constitutionally suspect.

* * *

Eighteen years have passed since we last considered Alabama's capital sentencing scheme, and much has changed since then. Today, Alabama stands alone: No other State condemns prisoners to death despite the considered judgment rendered by a cross-section of its citizens that the defendant ought to live. And *Ap-*

[9] In discounting the jury's finding that the mitigating circumstances outweighed the aggravating circumstances, the judge noted that he had access to information that the jury did not hear (referring to the additional fact-finding he had conducted after the jury made its findings), and "surmise[d]" that some members of the jury were "daunted by the task [of sentencing]" and fell prey to defense counsel's "powerful, emotional appeal." App. to Pet. for Cert. 82 (amended sentencing order).

prendi and its progeny have made clear the sanctity of the jury's role in our system of criminal justice. Given these developments, we owe the validity of Alabama's system a fresh look. I therefore respectfully dissent from the denial of certiorari.

APPENDIX

LIFE-TO-DEATH OVERRIDES IN ALABAMA*

#	Name	County	Year of Sentence	Jury Vote (Life-Death)
1	Jones, Arthur	Baldwin	1982	Unknown
2	Lindsey, Michael	Mobile	1982	11–1
3	Murry, Paul	Montgomery	1982	11–1
	Murry, Paul	Montgomery	1988	12–0
4	Acres, Gregory	Montgomery	1983	7–5
5	Harrell, Ed	Jefferson	1983	11–1
6	Neelley, Judy	De Kalb	1983	10–2
7	Crowe, Coy	Jefferson	1984	12–0
8	Freeman, Darryl	Madison	1984	12–0
9	Hays, Henry	Mobile	1984	7–5
10	Turner, Calvin	Etowah	1984	9–3
11	Johnson, Anthony	Morgan	1985	9–3
12	Musgrove, Phillip	Madison	1985	10–2
13	Owens, Charles	Russell	1985	9–3

*This list includes defendants identified in a July 2011 report by the Equal Justice Initiative, see The Death Penalty in Alabama: Judge Override, at http://eji.org/files/Override_Report.pdf (as visited on Nov. 15, 2013, and available in Clerk of Court's case file), and a 2011 law review article, see Radelet, Overriding Jury Sentencing Recommendations in Florida Capital Cases: An Update and Possible Half-Requiem, 2011 Mich. State L. Rev. 793, as well as defendants we are aware of who have been sentenced to death by judicial override subsequent to the publishing of those reports.

#	Name	County	Year of Sentence	Jury Vote (Life-Death)
14	Tarver, Robert	Russell	1985	7–5
15	Thompson, Steven	Madison	1985	10–2
16	Frazier, Richard	Mobile	1986	Unknown
	Frazier, Richard	Mobile	1990	Unknown
17	Hooks, Joseph	Montgomery	1986	7–5
18	Boyd, William	Calhoun	1987	7–5
19	Tarver, Bobby	Mobile	1987	7–5
20	Duncan, Joe	Dallas	1988	10–2
21	McMillian, Walter	Monroe	1988	7–5
22	Wesley, Ronald	Mobile	1988	8–4
23	Coral, Robert	Montgomery	1989	8–4
24	Hadley, J. C.	Baldwin	1989	12–0
25	Jackson, Willie	Coffee	1989	7–5
26	Parker, John	Colbert	1989	10–2
27	Russaw, Henry	Pike	1989	8–4
28	Stephens, Victor	Hale	1989	7–5
29	White, Leroy	Madison	1989	9–3
30	Flowers, Clayton	Baldwin	1990	11–1
31	Harris, Louise	Montgomery	1990	7–5
32	Neal, John	Baldwin	1990	10–2
33	Sockwell, Michael	Montgomery	1990	7–5
34	Tomlin, Phillip	Mobile	1990	12–0
	Tomlin, Phillip	Mobile	1994	12–0
	Tomlin, Phillip	Mobile	1999	12–0
35	Williams, Herbert	Mobile	1990	9–3
36	Beard, David	Marshall	1991	8–4

#	Name	County	Year of Sentence	Jury Vote (Life-Death)
37	Bush, William	Montgomery	1991	12–0
38	Giles, Arthur	Morgan	1991	Unknown
39	Carr, Patrick	Jefferson	1992	12–0
40	Gentry, Ward	Jefferson	1992	7–5
41	McGahee, Earl	Dallas	1992	10–2
42	Padgett, Larry	Marshall	1992	9–3
43	Rieber, Jeffrey	Madison	1992	7–5
44	Knotts, William	Montgomery	1993	9–3
45	McNair, Willie	Montgomery	1993	8–4
46	Burgess, Alonzo	Jefferson	1994	8–4
47	Burgess, Roy	Morgan	1994	10–2
48	Madison, Vernon	Mobile	1994	8–4
49	Myers, Robin	Morgan	1994	9–3
50	Roberts, David	Marion	1994	7–5
51	Scott, William	Geneva	1994	12–0
52	Barnes, Michael	Mobile	1995	9–3
53	Clark, Andrew	Henry	1995	9–3
54	Gregory, William	Baldwin	1995	10–2
55	Norris, Michael	Jefferson	1995	8–4
56	Ponder, Terry	Cullman	1995	8–4
57	Smith, Ronald	Madison	1995	7–5
58	Evans, Edward	Macon	1996	12–0, 9–3
59	Hyde, James	Marshall	1996	7–5
60	McGowan, James	Conecuh	1996	7–5
61	Smith, Kenneth	Jefferson	1996	11–1
62	Apicella, Andrew	Jefferson	1997	8–4

#	Name	County	Year of Sentence	Jury Vote (Life-Death)
63	Carroll, Taurus	Jefferson	1998	10–2
64	Dorsey, Ethan	Conecuh	1998	11–1
65	Ferguson, Thomas	Mobile	1998	11–1
66	Jackson, Shonelle	Montgomery	1998	12–0
67	Taylor, Jarrod	Mobile	1998	7–5
68	Wimberly, Shaber	Dale	1998	10–2
	Wimberly, Shaber	Dale	2001	7–5
69	Hodges, Melvin	Lee	1999	8–4
70	Waldrop, Bobby	Randolph	1999	10–2
71	Lee, Jeffrey	Dallas	2000	7–5
72	Martin, George	Mobile	2000	8–4
73	Morrow, John	Baldwin	2002	8–4
74	Moore, Daniel	Morgan	2003	8–4
75	Eatmon, Dionne	Jefferson	2005	9–3
76	Harris, Westley	Crenshaw	2005	7–5
77	Spencer, Kerry	Jefferson	2005	9–3, 10–2
78	Yancey, Vernon	Russell	2005	7–5
79	Billups, Kenneth	Jefferson	2006	7–5
80	Doster, Oscar	Covington	2006	12–0
81	Killingsworth, Jimmy	Bibb	2006	7–5
82	Lane, Thomas	Mobile	2006	8–4
83	Sneed, Ulysses	Morgan	2006	7–5
84	Mitchell, Brandon	Jefferson	2007	10–2
85	Stanley, Anthony	Colbert	2007	8–4
86	Jackson, Demetrius	Jefferson	2008	10–2
87	Spradley, Montez	Jefferson	2008	10–2

#	Name	County	Year of Sentence	Jury Vote (Life-Death)
88	Woodward, Mario	Montgomery	2008	8–4
89	McMillan, Calvin	Elmore	2009	8–4
90	Scott, Christie	Franklin	2009	7–5
91	Riggs, Jeffery	Jefferson	2010	10–2
92	White, Justin	Jefferson	2010	9–3
93	Lockhart, Courtney	Lee	2011	12–0
94	Shanklin, Clayton	Walker	2012	12–0
95	Henderson, Gregory	Lee	2012	9–3

No. 13–6525. TORRES *v.* CATE ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition. Reported below: 501 Fed. Appx. 662.

No. 13–6591. STRUJAN *v.* MERCK & CO., INC. C. A. 5th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 532 Fed. Appx. 551.

No. 13–6787. WILLIAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6821. CRUZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 506 Fed. Appx. 945.

No. 13–6836. GUIBILO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6857. MELENDEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6862. PERCEL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6951. REYES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–6953. DISLA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7005. QUINTERO-CALLE *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. 12–964. HAAGENSEN *v.* PENNSYLVANIA STATE POLICE ET AL., *ante*, p. 816;

No. 12–1348. LINGFEI SUN *v.* CITY OF NEW YORK, NEW YORK, ET AL., *ante*, p. 821;

No. 12–1431. YADAV ET UX. *v.* TOWNSHIP OF WEST WINDSOR, NEW JERSEY, ET AL., *ante*, p. 825;

No. 12–9991. GSSIME *v.* NASSAU COUNTY COURTHOUSE ET AL., *ante*, p. 835;

No. 12–10146. NESSELRODE *v.* MONTANA, *ante*, p. 839;

No. 12–10551. FRANKLIN *v.* COUNTY OF KALAMAZOO, MICHIGAN, ET AL., *ante*, p. 854;

No. 12–10622. NDON *v.* UNIVERSITY OF WISCONSIN-MILWAUKEE, *ante*, p. 859;

No. 12–10718. MCLEOD *v.* JARVIS, WARDEN, *ante*, p. 864;

No. 12–10774. DEANE *v.* MARSHALLS, INC., ET AL., *ante*, p. 867;

No. 12–10993. FAMILIA *v.* UNITED STATES, *ante*, p. 880;

No. 13–241. BLAIR *v.* UNITED STATES, *ante*, p. 890;

No. 13–5267. WHITWORTH *v.* STORY ET AL., *ante*, p. 906;

No. 13–5344. TURNER *v.* ILLINOIS, *ante*, p. 910;

No. 13–5394. CARNEGLIA *v.* UNITED STATES, *ante*, p. 913; and

No. 13–5764. CORZINE *v.* DEPARTMENT OF THE ARMY ET AL., *ante*, p. 929. Petitions for rehearing denied.

No. 12–10211. ANDERSEN *v.* YOUNG AND RUBICAM ADVERTISING, *ante*, p. 942. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

NOVEMBER 19, 2013

Miscellaneous Order

No. 13A452. PLANNED PARENTHOOD OF GREATER TEXAS SURGICAL HEALTH SERVICES ET AL. *v.* ABBOTT, ATTORNEY GENERAL OF TEXAS, ET AL. Application to vacate the stay entered by the United States Court of Appeals for the Fifth Circuit on October 31, 2013, presented to JUSTICE SCALIA, and by him referred to the Court, denied.

JUSTICE SCALIA, with whom JUSTICE THOMAS and JUSTICE ALITO join, concurring.

We may not vacate a stay entered by a court of appeals unless that court clearly and "'demonstrably'" erred in its application of "'accepted standards.'" *Western Airlines, Inc.* v. *Teamsters*, 480 U. S. 1301, 1305 (1987) (O'Connor, J., in chambers) (quoting *Coleman* v. *Paccar Inc.*, 424 U. S. 1301, 1304 (1976) (Rehnquist, J., in chambers)). The dissent promises to show that the Fifth Circuit committed such error when it granted a stay in this case, see *post*, at 1065 (opinion of BREYER, J.), but that promise goes unfulfilled. Instead, the dissent mentions six "considerations," most of which bear no discernible relationship to the "accepted standards" we have hitherto told courts to apply. The dissent's analysis is inconsistent with the "great deference" we owe to the Court of Appeals' decision, *Garcia-Mir* v. *Smith*, 469 U. S. 1311, 1313 (1985) (Rehnquist, J., in chambers)—deference that "is especially warranted when," as here, "that court is proceeding to adjudication on the merits with due expedition," *Doe* v. *Gonzales*, 546 U. S. 1301, 1308 (2005) (GINSBURG, J., in chambers).

When deciding whether to issue a stay, the Fifth Circuit had to consider four factors: (1) whether the State made a strong showing that it was likely to succeed on the merits, (2) whether the State would have been irreparably injured absent a stay, (3) whether issuance of a stay would substantially injure other parties, and (4) where the public interest lay. See *Nken* v. *Holder*, 556 U. S. 418, 434 (2009). The first two factors are "the most critical." *Ibid.*

The Court of Appeals analyzed the first factor at length and concluded that the State was likely to prevail on the merits of the constitutional question. The dissent does not join issue with that conclusion; it says only that the question is "difficult." *Post*,

at 1066. Standing alone, that observation cuts *against* vacatur, since the difficulty of a question is inversely proportional to the likelihood that a given answer will be clearly erroneous. With respect to the second factor, the Court of Appeals reasoned that the State faced irreparable harm because "'[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.'" *Maryland* v. *King*, 567 U. S. 1301, 1303 (2012) (ROBERTS, C. J., in chambers) (quoting *New Motor Vehicle Bd. of Cal.* v. *Orrin W. Fox Co.*, 434 U. S. 1345, 1351 (1977) (Rehnquist, J., in chambers)). The dissent does not quarrel with that conclusion either. It thus fails to allege *any* error, let alone obvious error, in the Court of Appeals' determination that the two "most critical" factors weighed in favor of the stay.

One might think that would be the end of the matter. Yet the dissent asserts that "the balance of harms tilts in favor of [the] applicants," *post*, at 1065—presumably referring to the third relevant factor, whether the stay would substantially injure third parties. The Court of Appeals, of course, acknowledged that applicants had "made a strong showing that their interests would be harmed" by a stay, but it concluded that "given the State's likely success on the merits, this is not enough, standing alone, to outweigh the other factors." 734 F. 3d 406, 419 (CA5 2013). The dissent never explains why that conclusion was clearly wrong: In particular, it cites no "'accepted standar[d],'" *Western Airlines*, *supra*, at 1305, requiring a court to delay enforcement of a state law that the court has determined is likely to withstand constitutional challenge solely because the law might injure third parties.

The Court of Appeals concluded that the fourth factor also favored the stay, reasoning that the State's interest in enforcing a valid law merges with the public interest. See *Nken*, *supra*, at 435. The dissent declines to criticize that reasoning, though we are presumably meant to infer from its disapproving comments about the stay's "seriou[s] disrupt[ion of the] status quo," *post*, at 1065, that the dissent believes preservation of the status quo—in which the law at issue is not enforced—is in the public interest. Many citizens of Texas, whose elected representatives voted for the law, surely feel otherwise. But their views go unacknowledged by the dissent, which again fails to cite any "'accepted standar[d]'" requiring a court to delay enforcement of a state law

that the court has determined is likely constitutional on the ground that the law threatens disruption of the status quo.

In sum, the dissent would vacate the Court of Appeals' stay without expressly rejecting that court's analysis of *any* of the governing factors. And it would flout core principles of federalism by mandating postponement of a state law without asserting that the law is even *probably* unconstitutional. Reasonable minds can perhaps disagree about whether the Court of Appeals should have granted a stay in this case. But there is no doubt that the applicants have not carried their heavy burden of showing that doing so was a clear violation of accepted legal standards—which do not include a special "status quo" standard for laws affecting abortion. The Court is correct to deny the application.

JUSTICE BREYER, with whom JUSTICE GINSBURG, JUSTICE SOTOMAYOR, and JUSTICE KAGAN join, dissenting.

In July of this year, the State of Texas passed two amendments to its abortion laws, which were to go into effect on October 29. See 2013 Texas House Bill No. 2. The amendment now at issue requires a physician performing an abortion to have admitting privileges at a hospital within 30 miles. Applicants challenged the amendments in Federal District Court, arguing (among other things) that they violate the constitutional right to have an abortion. See *Planned Parenthood of Southeastern Pa.* v. *Casey*, 505 U. S. 833 (1992).

The District Court held a bench trial and, on the day before the amendments were to go into effect, issued an opinion and order holding that the admitting privileges requirement is unconstitutional and permanently enjoining its enforcement. 951 F. Supp. 2d 891 (WD Tex. 2013). The District Court concluded that "admitting privileges have no rational relationship to improved patient care" and "do not rationally relate to the State's legitimate interest in protecting the unborn." *Id.*, at 900. And the court explained that, in its view, the admitting privileges requirement is unconstitutional because it is "without a rational basis and places a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." *Id.*, at 896–897; see also *Gonzales* v. *Carhart*, 550 U. S. 124, 146 (2007) (A State "may not impose upon this right [to an abortion] an undue burden, which exists if a regulation's 'purpose or effect is to place a sub-

stantial obstacle in the path of a woman seeking an abortion before the fetus attains viability' " (quoting *Casey*, *supra*, at 878)).

The State appealed the District Court's decision and asked the Court of Appeals for the Fifth Circuit to stay the injunction pending resolution of the appeal. The Court of Appeals granted the stay, which had the effect of allowing the admitting privileges requirement to go into force immediately. 734 F. 3d 406 (2013). In deciding to issue the stay, the Fifth Circuit undertook to apply the traditional analysis, which requires a balancing of four factors: " '(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.' " *Nken* v. *Holder*, 556 U. S. 418, 426 (2009) (quoting *Hilton* v. *Braunskill*, 481 U. S. 770, 776 (1987)). The Fifth Circuit thought that the State was likely to prevail on the merits, that the injunction would irreparably injure it by preventing it from implementing its statute at least until the Fifth Circuit reached a final decision, and that the public interest merged with the State's interest in the enforcement of its law. The Fifth Circuit recognized that applicants had "made a strong showing that their interests would be harmed by staying the injunction," but it concluded that "given the State's likely success on the merits, this is not enough, standing alone, to outweigh the other factors." 734 F. 3d, at 419.

As a practical matter, the Fifth Circuit's decision to stay the injunction meant that abortion clinics in Texas whose physicians do not have admitting privileges at a hospital within 30 miles of the clinic were forced to cease offering abortions. And it means that women who were planning to receive abortions at those clinics were forced to go elsewhere—in some cases 100 miles or more—to obtain a safe abortion, or else not to obtain one at all. The Fifth Circuit set the appeal for expedited consideration, with oral argument to be held in January 2014 and, I assume, a decision to issue soon thereafter. See *ibid.*

Applicants, the plaintiffs in the District Court, now ask this Court to vacate the Fifth Circuit's stay, meaning that the District Court's injunction would be reinstated and those clinics that were forced to close could reopen while the Fifth Circuit receives briefing and renders its considered decision on the merits.

This Court may vacate a stay entered by a court of appeals where the case " 'could and very likely would be reviewed here

upon final disposition in the court of appeals,'" "'the rights of the parties . . . may be seriously and irreparably injured by the stay,'" and "'the court of appeals is demonstrably wrong in its application of accepted standards in deciding to issue the stay.'" *Western Airlines, Inc.* v. *Teamsters*, 480 U. S. 1301, 1305 (1987) (O'Connor, J., in chambers) (quoting *Coleman* v. *Paccar Inc.*, 424 U. S. 1301, 1304 (1976) (Rehnquist, J., in chambers)). For the following reasons, I believe that these conditions are satisfied here.

First, under the status quo that existed in Texas prior to the enactment of the admitting privileges requirement, women across the State of Texas who needed abortions had a certain level of access to clinics that would provide them. If allowed to stand, the District Court's injunction would maintain that status quo pending the decision of this case by the Court of Appeals.

Second, the Fifth Circuit's stay seriously disrupts that status quo. By putting Texas' new law into immediate effect, it instantly leaves "24 counties in the Rio Grande Valley . . . with no abortion provider because those providers do not have admitting privileges and are unlikely to get them," 951 F. Supp. 2d, at 900, and it may substantially reduce access to safe abortions elsewhere in Texas. Applicants assert that 20,000 women in Texas will be left without service. While the State denies this assertion, it provides no assurance that a significant number of women seeking abortions will not be affected, and the District Court unquestionably found that "there will be abortion clinics that will close." *Ibid.* The longer a given facility remains closed, the less likely it is ever to reopen even if the admitting privileges requirement is ultimately held unconstitutional.

Third, the Fifth Circuit has agreed to expedite its consideration of the challenge, minimizing the harm that the injunction, if entered in error, would do to the State and bolstering my view that it is a mistake to disrupt the status quo so seriously before the Fifth Circuit has arrived at a considered decision on the merits.

Fourth, the balance of harms tilts in favor of applicants. If the law is valid, then the District Court's injunction harms the State by delaying for a few months a change to the longstanding status quo. If the law is invalid, the injunction properly prevented the potential for serious physical or other harm to many women whose exercise of their constitutional right to obtain an abortion would be unduly burdened by the law. And although the injunction will ultimately be reinstated if the law is indeed

invalid, the harms to the individual women whose rights it restricts while it remains in effect will be permanent.

Fifth, the underlying legal question—whether the new Texas statute is constitutional—is a difficult question. It is a question, I believe, that at least four Members of this Court will wish to consider irrespective of the Fifth Circuit's ultimate decision.

Sixth, I can find no significant "public interest" considerations beyond those I have already mentioned.

Given these considerations, in my view, the standard governing the Fifth Circuit's decision whether to stay the District Court's injunction was not satisfied, and the standard governing this Court's decision whether to vacate the Fifth Circuit's stay is satisfied. See *Nken*, *supra*, at 426; *Western Airlines*, *supra*, at 1305. I would maintain the status quo while the lower courts consider this difficult, sensitive, and controversial legal matter. Thus, I would vacate the stay, and I dissent from the Court's refusal to do so.

November 20, 2013

Miscellaneous Order

No. 13A512. Franklin *v.* Lombardi et al. Application for stay of execution of sentence of death, presented to Justice Alito, and by him referred to the Court, denied. Justice Scalia took no part in the consideration or decision of this application.

Certiorari Denied

No. 13–7419 (13A511). Franklin *v.* Luebbers, Warden. C. A. 8th Cir. Certiorari denied. Application for stay of execution of sentence of death, presented to Justice Alito, and by him referred to the Court, denied. Justice Scalia took no part in the consideration or decision of this application and this petition.

November 26, 2013

Miscellaneous Order

No. 12–1182. Environmental Protection Agency et al. *v.* EME Homer City Generation, L. P., et al.; and

No. 12–1183. American Lung Assn. et al. *v.* EME Homer City Generation, L. P., et al. C. A. D. C. Cir. [Certiorari

granted, 570 U. S. 916.] Motion of respondents for divided argument granted. JUSTICE ALITO took no part in the consideration or decision of this motion.

Certiorari Granted

No. 13–115. WOOD ET AL. *v.* MOSS ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 711 F. 3d 941.

No. 13–299. CLARK ET UX. *v.* RAMEKER, TRUSTEE, ET AL. C. A. 7th Cir. Certiorari granted. Reported below: 714 F. 3d 559.

No. 13–354. SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. *v.* HOBBY LOBBY STORES, INC., ET AL. C. A. 10th Cir.; and

No. 13–356. CONESTOGA WOOD SPECIALTIES CORP. ET AL. *v.* SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 3d Cir. Certiorari granted, cases consolidated, and a total of one hour is allotted for oral argument. Reported below: No. 13–354, 723 F. 3d 1114; No. 13–356, 724 F. 3d 377.

DECEMBER 2, 2013

Appeal Dismissed

No. 13–395. ALABAMA LEGISLATIVE BLACK CAUCUS ET AL. *v.* ALABAMA ET AL. Appeal from D. C. M. D. Ala. dismissed for want of jurisdiction. Reported below: 988 F. Supp. 2d 1285.

Certiorari Granted—Vacated and Remanded. (See No. 13–113, *ante*, p. 28.)

Certiorari Dismissed

No. 13–6485. MOSBY *v.* KELLEY. 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. 13–6985. PITCHFORD *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 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. 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: 504 Fed. Appx. 549.

No. 13–7088. ERWIN *v.* UNITED STATES 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. Reported below: 509 Fed. Appx. 285.

No. 13–7140. O'CONNOR *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–7162. SETTLE *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. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 13–7197. HINDMAN *v.* UNITED STATES. 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. JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

Miscellaneous Orders

No. D–2747. IN RE DISCIPLINE OF DAVY. Michelle Hamilton Davy, of Largo, 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–2748. IN RE DISCIPLINE OF NACHWALTER. George M. Nachwalter, of Miami, 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–2749. IN RE DISCIPLINE OF SARGENT. Mark Alan Sargent, of Devon, 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. 13M55. SEMIEN *v.* JACQUEZ, WARDEN;

No. 13M56. FULLER *v.* FRIED, FRANK, HARRIS, SHRIVER & JACOBSON LLP;

No. 13M58. ROSS-WEST ET VIR *v.* BANK OF NEW YORK MELLON CORP.; and

No. 13M59. ANDREWS *v.* PROFESSIONAL PARATRANSIT. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 13M57. FINE *v.* MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 12–10196. SWAIN *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 802] denied.

No. 12–10352. CARY *v.* VIRGINIA. Sup. Ct. Va. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 802] denied.

No. 12–10678. LUIS REYES *v.* DAVIS, WARDEN. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 811] denied.

No. 13–271. ONEOK, INC., ET AL. *v.* LEARJET, INC., 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. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–5597. WASHINGTON *v.* KROGER LIMITED PARTNERSHIP I. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied.

No. 13–6459. JOHNSON *v.* EDWARDS ET AL. C. A. 5th Cir.;

No. 13–6518. MISSUD *v.* SUPERIOR COURT OF CALIFORNIA, SAN FRANCISCO COUNTY, ET AL. C. A. 9th Cir.;

No. 13–6586. HARRISON *v.* VIRGINIA. Sup. Ct. Va.;

No. 13–6908. TORDA, MOTHER OF TORDA *v.* FAIRFAX COUNTY SCHOOL BOARD. C. A. 4th Cir.;

No. 13–7036. ESCALANTE *v.* HOLDER, ATTORNEY GENERAL. C. A. 9th Cir.; and

No. 13–7057. AWAD *v.* UNITED STATES. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 23, 2013, 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. 13–7163. SPATARO *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until December 23, 2013, 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 KAGAN took no part in the consideration or decision of this motion.

No. 13–7148. IN RE SUDBERRY;
No. 13–7233. IN RE ATWATER; and
No. 13–7258. IN RE BROWN. Petitions for writs of habeas corpus denied.

No. 13–414. IN RE PARTINGTON;
No. 13–6491. IN RE CULVERHOUSE; and
No. 13–7212. IN RE LE CHABRIER. Petitions for writs of mandamus denied.

No. 13–6474. IN RE HIEN ANH DAO. 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. 13–6561. IN RE JENKINS. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 12–1412. LEE VANG LOR *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 706 F. 3d 1252.

No. 12–1419. BEASLEY *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 709 F. 3d 1154.

No. 12–10073. ALEXANDER *v.* FIRST WIND ENERGY, LLC, ET AL. C. A. 1st Cir. Certiorari denied.

No. 12–10087. FREEMAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS

Division. C. A. 5th Cir. Certiorari denied. Reported below: 491 Fed. Appx. 506.

No. 12–10134. Demarest *v.* Ocwen Loan Servicing, LLC, et al. C. A. 9th Cir. Certiorari denied. Reported below: 481 Fed. Appx. 352.

No. 12–10158. Rivera *v.* Cary Place Condominium Assn. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1103, 979 N. E. 2d 239.

No. 13–231. Judd et al. *v.* Libertarian Party of Virginia et al. C. A. 4th Cir. Certiorari denied. Reported below: 718 F. 3d 308.

No. 13–239. Berry *v.* Webloyalty.com, Inc., et al. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 581.

No. 13–244. May et ux. *v.* Commissioner of Internal Revenue. C. A. 6th Cir. Certiorari denied.

No. 13–252. Overstock.com, Inc. *v.* New York State Department of Taxation and Finance et al.; and

No. 13–259. Amazon.com LLC et al. *v.* New York State Department of Taxation and Finance et al. Ct. App. N. Y. Certiorari denied. Reported below: 20 N. Y. 3d 586, 987 N. E. 2d 621.

No. 13–266. Grand River Enterprises Six Nations, Ltd. *v.* Oklahoma ex rel. Pruitt, Attorney General, et al. Ct. Civ. App. Okla. Certiorari denied. Reported below: 2013 OK CIV APP 58, 308 P. 3d 1057.

No. 13–306. Liberty University et al. *v.* Lew, Secretary of the Treasury, et al. C. A. 4th Cir. Certiorari denied. Reported below: 733 F. 3d 72.

No. 13–338. Bowers et al. *v.* Franks, as Personal Representative of the Estate of Franks, Deceased. Sup. Ct. Fla. Certiorari denied. Reported below: 116 So. 3d 1240.

No. 13–345. Cappiello *v.* ICD Publications, Inc. C. A. 2d Cir. Certiorari denied. Reported below: 720 F. 3d 109.

No. 13–346. Kreher *v.* Loe. Ct. App. Cal., 3d App. Dist. Certiorari denied.

No. 13–348. COMB ET AL. *v.* ROWELL ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 371.

No. 13–359. SANTOS *v.* HAWKINS ET AL. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 13–360. SINGLETON *v.* STACK ET AL. Ct. App. S. C. Certiorari denied.

No. 13–361. RECHTZIGEL *v.* FISCHER. Ct. App. Minn. Certiorari denied.

No. 13–362. SCOTT *v.* CITY OF VIRGINIA BEACH, VIRGINIA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 215.

No. 13–364. UNDERWOOD *v.* FLORIDA DEPARTMENT OF FINANCIAL SERVICES. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 637.

No. 13–367. MWANGI *v.* BRAEGELMANN ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 637.

No. 13–374. JACKSON *v.* DOW CHEMICAL CO. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 99.

No. 13–378. DELANCEY, AS PERSONAL REPRESENTATIVE OF THE ESTATE AND ON BEHALF OF ALL SURVIVORS OF DELANCEY, DECEASED *v.* CARLTON ARMS OF MAGNOLIA VALLEY. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 104 So. 3d 1143.

No. 13–384. VURIMINDI *v.* CITY OF PHILADELPHIA, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 521 Fed. Appx. 62.

No. 13–386. CFS ENTERPRISE, INC., ET AL. *v.* HECKADON ET AL. Ct. App. Mo., Western Dist. Certiorari denied. Reported below: 400 S. W. 3d 372.

No. 13–388. SEITZ ET AL. *v.* CITY OF ELGIN, ILLINOIS. C. A. 7th Cir. Certiorari denied. Reported below: 719 F. 3d 654.

No. 13–396. JOHNSON ET UX. *v.* CITY OF SHOREWOOD, MINNESOTA. C. A. 8th Cir. Certiorari denied.

No. 13–404. Toney *v.* LaSalle Bank N. A., Trustee. Ct. App. S. C. Certiorari denied.

No. 13–406. Shrestha et al. *v.* Lelin. C. A. 2d Cir. Certiorari denied. Reported below: 488 Fed. Appx. 513.

No. 13–409. Diggs *v.* Donahoe, Postmaster General. C. A. 6th Cir. Certiorari denied.

No. 13–420. Baker *v.* New York. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 104 App. Div. 3d 783, 960 N. Y. S. 2d 511.

No. 13–425. Potts *v.* Howard University Hospital et al. C. A. D. C. Cir. Certiorari denied. Reported below: 493 Fed. Appx. 114.

No. 13–426. Williams *v.* Department of the Air Force. C. A. Fed. Cir. Certiorari denied. Reported below: 524 Fed. Appx. 608.

No. 13–432. Wessell et al. *v.* Topiwala et al. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 184.

No. 13–489. Costello *v.* University of Washington Medical Center et al. Ct. App. Wash. Certiorari denied. Reported below: 170 Wash. App. 1047.

No. 13–507. Garcia *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 516 Fed. Appx. 149.

No. 13–535. Lapin *v.* State Bar of California. Sup. Ct. Cal. Certiorari denied.

No. 13–540. HIE Holdings, Inc., et al. *v.* Commissioner of Internal Revenue. C. A. 9th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 602.

No. 13–556. Nader *v.* Federal Election Commission. C. A. D. C. Cir. Certiorari denied. Reported below: 725 F. 3d 226.

No. 13–5040. Bilyeu *v.* Metropolitan Government of Nashville and Davidson County, Tennessee, et al. C. A. 6th Cir. Certiorari denied.

No. 13–5154. HALE *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 512 Fed. Appx. 516.

No. 13–5322. BEACH-MATHURA *v.* MIAMI-DADE COUNTY PUBLIC SCHOOLS ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 110 So. 3d 440.

No. 13–5354. ESPINOSA *v.* BURGER KING CORP. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 991.

No. 13–5431. HUMPHREY *v.* BEERS, ACTING SECRETARY OF HOMELAND SECURITY. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 705.

No. 13–5451. BENTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 365.

No. 13–5487. MARYEA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 704 F. 3d 55.

No. 13–5517. PETRI *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 731 F. 3d 833.

No. 13–5568. SPROUSE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 199.

No. 13–5714. KENNEDY *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied. Reported below: 385 S. W. 3d 729.

No. 13–5716. WILLIAMS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 116.

No. 13–5918. ELLIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 720 F. 3d 220.

No. 13–5996. LAVER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 468.

No. 13–6021. MATTHEWS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 124 So. 3d 811.

No. 13–6392. RONDENO *v.* LAW OFFICE OF WILLIAM S. VINCENT, JR., ET AL. Ct. App. La., 4th Cir. Certiorari denied. Reported below: 2012–1203 (La. App. 4 Cir. 3/13/13), 111 So. 3d 515.

No. 13–6401. WILLIAMS *v.* WILSON, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied.

No. 13–6403. WEEMS *v.* HARDY. Sup. Ct. Ill. Certiorari denied.

No. 13–6409. MCFADDEN *v.* JEPERTINGER. C. A. 4th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 195.

No. 13–6413. PITNEY *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 3. Certiorari denied.

No. 13–6416. HILTON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 117 So. 3d 742.

No. 13–6421. GALINDO BENAVIDES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6426. LAYE *v.* CALDWELL, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–6430. STONE *v.* OWENS, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6431. SLOSS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6433. STROLL *v.* JOHNSON ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6436. PATTON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied. Reported below: 109 So. 3d 66.

No. 13–6437. VASQUEZ PEREZ *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6439. AGUILERA-GUERRA *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6441. GRABER ET VIR *v.* CONWAY ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6443. NASH *v.* OHIO. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2013-Ohio-1346.

No. 13–6452. NITZ *v.* BELL ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–6457. MARIN *v.* TRUMBULL COUNTY COURT OF APPEALS. Sup. Ct. Ohio. Certiorari denied. Reported below: 134 Ohio St. 3d 1481, 2013-Ohio-902, 984 N. E. 2d 26.

No. 13–6462. GIVINS *v.* BRISCO ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 624.

No. 13–6463. HIGGINS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 720 F. 3d 255.

No. 13–6465. BAGLEY *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103199–U.

No. 13–6466. BURTON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103007–U.

No. 13–6467. ARVIE *v.* TANNER, WARDEN, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 304.

No. 13–6473. DEWS *v.* KERN RADIOLOGY MEDICAL GROUP, INC., ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6476. DAVIS *v.* CITY OF ST. LOUIS, MISSOURI, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6477. DIGGS *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6479. FLUKER *v.* REYNOLD'S AMERICAN INC. C. A. 2d Cir. Certiorari denied.

No. 13–6480. FLUKER *v.* GENERAL MOTORS. C. A. 2d Cir. Certiorari denied.

No. 13–6482. HAMILTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–6483. GILBERT *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 13–6484. GRAVES *v.* HOWERTON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6486. PORTER *v.* HOWARD ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 792.

No. 13–6492. CISNEROS *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6500. ELLIOTT *v.* MICHIGAN. Sup. Ct. Mich. Certiorari denied. Reported below: 494 Mich. 292, 833 N. W. 2d 284.

No. 13–6503. MITCHELL *v.* HAMPTON ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–6514. RANDOLPH *v.* LOUISIANA (two judgments). Sup. Ct. La. Certiorari denied. Reported below: 2012–2257 (La. 3/1/13), 108 So. 3d 1173 (first judgment); 2012–1783 (La. 12/14/12), 104 So. 3d 435 (second judgment).

No. 13–6519. MOORE *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 708 F. 3d 760.

No. 13–6521. WOODS *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 225.

No. 13–6522. WEBB *v.* STEVENS. C. A. 10th Cir. Certiorari denied.

No. 13–6523. ZAKAT *v.* AVENT. Super. Ct. Pa. Certiorari denied. Reported below: 63 A. 3d 841.

No. 13–6524. WIGGINS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 768.

No. 13–6527. WILLIAMS *v.* REYNOR RENSCH & PFIEFFER ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–6531. PALMER *v.* LEMOY. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 685.

No. 13–6532. MATHIS *v.* CARPENTER, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 470.

No. 13–6536. JONES *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 4th Jud. Dept. Certiorari denied. Reported below: 100 App. Div. 3d 1362, 953 N. Y. S. 2d 416.

No. 13–6543. SOLIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6547. DOWDY *v.* PRUETT, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 268.

No. 13–6552. PARKER *v.* WARREN, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6560. KEELER *v.* RIVERSIDE HOSPITAL, INC., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 253.

No. 13–6565. PIERRE-GILLES *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 116 So. 3d 390.

No. 13–6566. BOLIN *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 117 So. 3d 728.

No. 13–6569. JOHNSON *v.* GIROUX, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MUNCY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6570. JIMENA *v.* STANDISH ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 632.

No. 13–6576. CHAND *v.* BRAVO, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 640.

No. 13–6578. ESPINOZA *v.* MCDONALD. C. A. 9th Cir. Certiorari denied.

No. 13–6587. GREENE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 122 So. 3d 867.

No. 13–6589. ROSE *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 231 Ariz. 500, 297 P. 3d 906.

No. 13–6598. PRYOR *v.* YATAURO ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6599. LINTON *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 1146, 302 P. 3d 927.

No. 13–6601. SEMULKA *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 74.

No. 13–6603. SATKIEWICZ *v.* MICHIGAN ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6605. DAVIS *v.* WORKMAN, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 774.

No. 13–6606. CHESHER *v.* CHAPMAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6613. COLLINS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 116 So. 3d 389.

No. 13–6614. CLARKE *v.* RADER, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 721 F. 3d 339.

No. 13–6615. CLAUDE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6620. AGUIRRE *v.* LEWIS, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6623. BANKS *v.* DOE ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 503.

No. 13–6630. MCLEOD *v.* SELECT SPECIALTY HOSPITAL NORTHEAST OHIO, INC., ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6676. PAPA *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 522 Fed. Appx. 86.

No. 13–6680. WILSON *v.* OFFICE OF THE ATTORNEY GENERAL. C. A. 6th Cir. Certiorari denied.

No. 13–6686. SPELLS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–6689. BARROS-SUAREZ *v.* HOLDER, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 192.

No. 13–6704. SCHREANE *v.* SANTOES ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 845.

No. 13–6718. JAMES *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–6722. ZORNES *v.* MINNESOTA. Sup. Ct. Minn. Certiorari denied. Reported below: 831 N. W. 2d 609.

No. 13–6730. CHARLINE P. *v.* CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES. App. Ct. Conn. Certiorari denied. Reported below: 140 Conn. App. 708, 59 A. 3d 902.

No. 13–6739. MOSES *v.* TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. C. A. 5th Cir. Certiorari denied. Reported below: 489 Fed. Appx. 753.

No. 13–6792. PIERRE *v.* HOLDER, ATTORNEY GENERAL. C. A. 3d Cir. Certiorari denied. Reported below: 527 Fed. Appx. 114.

No. 13–6794. NEW *v.* URIBE, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 743.

No. 13–6795. PORTILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–6804. WIEGAND *v.* BACHUS ET AL. Ct. App. Colo. Certiorari denied.

No. 13–6819. CARRANZA ET UX. *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 882.

No. 13–6838. GILYARD *v.* ANGLIN, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–6843. DESUE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 100 So. 3d 151.

No. 13–6845. VIRAY *v.* EIGHTH JUDICIAL DISTRICT COURT OF NEVADA, CLARK COUNTY, ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1159.

No. 13–6890. STRONG *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 724 F. 3d 51.

No. 13–6897. ALMY *v.* KICKERT SCHOOL BUS LINE, INC. C. A. 7th Cir. Certiorari denied. Reported below: 722 F. 3d 1069.

No. 13–6899. CROWDER *v.* HEATH, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–6900. CUMMINGS *v.* SANTIAGO, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 427.

No. 13–6904. PARRA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 420 S. W. 3d 821.

No. 13–6930. JIMENA *v.* SAI HO WONG. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–6932. MELANSON *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 2. Certiorari denied.

No. 13–6935. BADINI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 190.

No. 13–6937. BRYANT *v.* STEVENSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 345.

No. 13–6942. WILLIAMS *v.* DONAHOE, POSTMASTER GENERAL. C. A. 7th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 516.

No. 13–6946. GARCIA *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 269.

No. 13–6960. YOUNG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6964. GARFIAS-GARCIA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 729.

No. 13–6965. FOSTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 178.

No. 13–6967. GONCALVES *v.* KENTUCKY. Sup. Ct. Ky. Certiorari denied. Reported below: 404 S. W. 3d 180.

No. 13–6968. FRASIER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 799.

No. 13–6971. MACK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 756.

No. 13–6972. JOHNSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 719 F. 3d 660.

No. 13–6983. NAPOLI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–6984. PARK *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 770.

No. 13–6986. MORIMOTO *v.* OBENLAND, SUPERINTENDENT, CLALLAM BAY CORRECTIONS CENTER, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7009. BELL *v.* PERRY, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY. C. A. 4th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 215.

No. 13–7024. WEHLAND *v.* PALMER, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7038. THOMAS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 276.

No. 13–7043. LUTZ *v.* ANDERSON, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–7045. KE *v.* EDINBORO UNIVERSITY OF PENNSYLVANIA ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 104.

No. 13–7052. HERNANDEZ-LIZARDI *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 676.

No. 13–7053. HAUCK *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 247.

No. 13–7055. GARDNER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 663.

No. 13–7056. BAKER *v.* WERLINGER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–7060. STEVENSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 70 A. 3d 259.

No. 13–7061. CAULFIELD *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 509.

No. 13–7062. CURANOVIC *v.* UNITED STATES; and

No. 13–7076. FRANZESE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 490 Fed. Appx. 403.

No. 13–7064. SMITH *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 68 A. 3d 729.

No. 13–7069. PATTERSON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7075. ORTIZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 898.

No. 13–7081. BAMDAD *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7084. BALDWIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7085. HARRIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 185.

No. 13–7086. GONZALEZ-CORELLA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 616.

No. 13–7089. YI QING CHEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 772.

No. 13–7090. CROWDER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7092. STRINGER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 730 F. 3d 120.

No. 13–7095. EASLEY *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 117 So. 3d 425.

No. 13–7097. EDWARDS *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 403.

No. 13–7099. JONES *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 942.

No. 13–7104. RICHARDSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 236.

No. 13–7106. CARRINGTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 111.

No. 13–7111. WALTON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 430.

No. 13–7113. LOPEZ-GARCIA, AKA ALBERTO CARRAZCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 388.

No. 13–7123. WORTHEY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 716 F. 3d 1107.

No. 13–7126. CAMPBELL *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7127. DREWERY ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 675.

No. 13–7130. FRANCIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 531.

No. 13–7131. FLORES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7133. MORRIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 538.

No. 13–7135. STOKES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 726 F. 3d 880.

No. 13–7139. PARKS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7141. FREDERICKS ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 570.

No. 13–7144. MANUEL CARRASCO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7151. JONES *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 543 Fed. Appx. 171.

No. 13–7153. HERNANDEZ LOZANO *v.* UNITED STATES (Reported below: 539 Fed. Appx. 403); TREVINO-CRUZ *v.* UNITED STATES (539 Fed. Appx. 396); and VILLEGAS-MARQUEZ *v.* UNITED STATES (539 Fed. Appx. 392). C. A. 5th Cir. Certiorari denied.

No. 13–7156. RAMSEY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 731.

No. 13–7165. ROBERTS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 501 Fed. Appx. 228.

No. 13–7166. RODRIGUEZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 711 F. 3d 928.

No. 13–7168. MINJAREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 495 Fed. Appx. 857.

No. 13–7170. MCCLENDON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7175. BROWN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 70 A. 3d 258.

No. 13–7176. BARRAGAN-MALFABON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 483.

No. 13–7177. BRATTON-BEY, AKA BRATTON, AKA BANKS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 165.

No. 13–7179. SHAHID *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7181. ESTUPINAN-ESTUPINAN *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–7182. DAVIS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 724 F. 3d 949.

No. 13–7183. CORDELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 584.

No. 13–7185. CLARK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 927.

No. 13–7187. GILBERTSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 511.

No. 13–7188. FORDE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 519 Fed. Appx. 12.

No. 13–7196. BAYLOR ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 149.

No. 13–7201. ZAINES-VARGAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 612.

No. 13–7203. MILLER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 331.

No. 13–7204. REAL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–7213. LITTLE DOG *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7216. SHUFF *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 251.

No. 13–7217. RIVERA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 596.

No. 13–7220. WATSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 213.

No. 13–7221. AGUILERA-SANDOVAL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 491.

No. 13–7223. BERNEGGER *v.* UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI. C. A. 5th Cir. Certiorari denied.

No. 13–260. DYNAMIC TRANSIT CO. ET AL. *v.* TRANS PACIFIC VENTURES, INC., ET AL. Sup. Ct. Nev. Motion of Trucking Industry Defense Association for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 128 Nev. 755, 291 P. 3d 114.

No. 13–347. CALIFORNIA *v.* GUTIERREZ. Ct. App. Cal., 1st App. Dist., Div. 3. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 214 Cal. App. 4th 343, 153 Cal. Rptr. 3d 832.

No. 13–349. CHRISTINE FALLS OF NEW YORK, INC., ET AL. *v.* ALGONQUIN POWER INCOME FUND ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 509 Fed. Appx. 82.

No. 13–371. A. S. E. *v.* A. S. Ct. App. Tex., 9th Dist. Motions of Family Defense Center et al. and Sargent Shriver National Center on Poverty Law for leave to file briefs as *amici curiae* granted. Certiorari denied.

No. 13–6515. STARTUP *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL. C. A. 9th

Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–6959. HERTULAR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 509 Fed. Appx. 45.

No. 13–6995. BOREN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 534 Fed. Appx. 611.

No. 13–7102. MAYFIELD *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7159. REDMOND *v.* UPTON, WARDEN. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 544 Fed. Appx. 428.

No. 13–7180. BERNARDO SANCHEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7218. VENTURA-VERA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7219. VENTURA-VERA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

Rehearing Denied

No. 12–1286. DINICOLA *v.* OREGON DEPARTMENT OF REVENUE, *ante*, p. 819;

No. 12–1375. RUFF *v.* GILLESS ET AL., *ante*, p. 822;

No. 12–1413. HOLKESVIG *v.* NORTH DAKOTA, *ante*, p. 824;

No. 12–1454. WEI XU *v.* FANGRUO CHEN, *ante*, p. 827;

No. 12–1476. VAN AUKEN *v.* CATRON, *ante*, p. 828;

No. 12–7720. STROUTH *v.* COLSON, WARDEN, *ante*, p. 829;

No. 12–9952. MERZBACHER *v.* SHEARIN ET AL. (two judgments), *ante*, p. 834;

No. 12–9964. SANDERS *v.* DEPARTMENT OF HEALTH AND HUMAN SERVICES ET AL., *ante*, p. 835;

No. 12–9980. GAMMONS *v.* CITY AND COUNTY OF DENVER, COLORADO, ET AL., *ante*, p. 835;

No. 12–10104. HUNT *v.* WILSON ET AL., *ante*, p. 839;

No. 12–10243. REED *v.* JOB COUNCIL OF THE OZARKS ET AL., *ante*, p. 842;

No. 12–10258. KILMARTIN *v.* HURLEY, WARDEN, *ante*, p. 843;

No. 12–10262. MORMAN-JOHNSON *v.* HATHAWAY ET AL., *ante*, p. 843;

No. 12–10278. REYNOLDS *v.* ALABAMA, *ante*, p. 843;

No. 12–10321. GENTRY *v.* SINCLAIR, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY, *ante*, p. 845;

No. 12–10396. KYEI *v.* OREGON DEPARTMENT OF TRANSPORTATION ET AL., *ante*, p. 847;

No. 12–10398. JENNINGS *v.* CITY OF INDIANAPOLIS, INDIANA, *ante*, p. 848;

No. 12–10427. REVELES *v.* TEGELS, WARDEN, *ante*, p. 849;

No. 12–10441. MARCUM ET UX. *v.* AYERS ET UX., *ante*, p. 849;

No. 12–10449. HILL *v.* HUMPHREY, WARDEN, *ante*, p. 850;

No. 12–10469. IN RE HILL, *ante*, p. 813;

No. 12–10508. RAMON OCHOA *v.* RUBIN, *ante*, p. 852;

No. 12–10593. FRAZIER *v.* SABINE RIVER AUTHORITY, STATE OF LOUISIANA, *ante*, p. 857;

No. 12–10681. COOPER *v.* MISSOURI LOTTERY, *ante*, p. 862;

No. 12–10683. SMORYNSKI *v.* UNITED STATES, *ante*, p. 862;

No. 12–10731. IN RE WEI ZHOU, *ante*, p. 815;

No. 12–10740. GRENNING *v.* WASHINGTON, *ante*, p. 865;

No. 12–10760. WHITEFORD *v.* PENNSYLVANIA ET AL., *ante*, p. 866;

No. 12–10796. DIMONDA *v.* FLORIDA, *ante*, p. 869;

No. 12–10852. BROCK *v.* BRAZELTON, ACTING WARDEN, *ante*, p. 872;

No. 12–10861. BELT *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, *ante*, p. 873;

No. 12–10862. IN RE BROWN, *ante*, p. 813;

No. 12–10864. BURFEINDT *v.* UNITED STATES, *ante*, p. 873;

No. 12–10895. CLARK *v.* MINNESOTA, *ante*, p. 874;

No. 12–10913. LUH *v.* FARNSWORTH ET AL., *ante*, p. 875;

No. 12–10935. FENNER *v.* UNITED STATES, *ante*, p. 877;

No. 12–10995. HAWKINS *v.* COUNTY OF LOS ANGELES, CALIFORNIA, *ante*, p. 880;

No. 13–18. JANDA *v.* WASHINGTON, *ante*, p. 881;

No. 13–21. SHINER *v.* UNITED STATES, *ante*, p. 881;

No. 13–24. DANIEL *v.* UNIVERSAL ENSCO, INC., *ante*, p. 882;

No. 13–114. JAVIER MONREAL *v.* NEW YORK ET AL., *ante*, p. 886;

No. 13–122. WHITAKER *v.* NASH COUNTY, NORTH CAROLINA, ET AL., *ante*, p. 887;

No. 13–189. VONEIDA *v.* STOEHR ET AL., *ante*, p. 954;

No. 13–220. FISCHER *v.* CITY OF NEW YORK, NEW YORK, ET AL., *ante*, p. 889;

No. 13–5008. IN RE HUNT, *ante*, p. 813;

No. 13–5032. JOHNSON *v.* UNITED STATES, *ante*, p. 892;

No. 13–5100. RICE *v.* GEORGIA, *ante*, p. 896;

No. 13–5127. THOMPSON *v.* RUNNELS, WARDEN, ET AL., *ante*, p. 898;

No. 13–5168. JACOBS *v.* NONPUBLIC POSTSECONDARY EDUCATION COMMISSION, *ante*, p. 900;

No. 13–5189. REAGLE *v.* JONES, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS, *ante*, p. 901;

No. 13–5232. JACKSON *v.* CURRY, *ante*, p. 904;

No. 13–5245. SORO *v.* SORO, *ante*, p. 905;

No. 13–5280. GREGORY *v.* ADAMS, JUDGE, SUPERIOR COURT OF GEORGIA, WHITFIELD COUNTY, ET AL., *ante*, p. 907;

No. 13–5297. MAY *v.* PATTERSON ET AL., *ante*, p. 908;

No. 13–5335. RICHARDS *v.* BRITISH PETROLEUM ET AL., *ante*, p. 910;

No. 13–5467. IN RE GSSIME, *ante*, p. 813;

No. 13–5491. JACKSON *v.* HARGADON, *ante*, p. 918;

No. 13–5528. MARTINEZ *v.* MARTINEZ ET AL., *ante*, p. 920;

No. 13–5529. HOFLAND *v.* MAINE, *ante*, p. 920;

No. 13–5551. IN RE SUTTON, *ante*, p. 814;

No. 13–5627. HARRIS *v.* MESSITTE, JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND, ET AL., *ante*, p. 957;

No. 13–5668. BUCZEK *v.* UNITED STATES, *ante*, p. 926;

No. 13–5731. DUMEY *v.* KISSIMMEE UTILITY AUTHORITY, *ante*, p. 959;

No. 13–5748. IN RE POLLY, *ante*, p. 814;

No. 13–5816. MARTINEZ *v.* MARTINEZ ET AL., *ante*, p. 975;

No. 13–5829. SHELL *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS, *ante*, p. 931;

No. 13–6125. WAY QUOE LONG *v.* UNITED STATES, *ante*, p. 963; and

No. 13–6161. KEYS *v.* UNITED STATES, *ante*, p. 965. Petitions for rehearing denied.

No. 12–8364. FULKS *v.* UNITED STATES, *ante*, p. 941;
No. 12–10974. FIELDS *v.* UNITED STATES, *ante*, p. 943; and
No. 13–5359. BRYANT *v.* UNITED STATES, *ante*, p. 945. Petitions for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of these petitions.

No. 12–9125. CAIN *v.* UNITED STATES, *ante*, p. 942;
No. 12–10843. KEARNEY *v.* GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, *ante*, p. 943; and
No. 13–5942. SESSA *v.* UNITED STATES, *ante*, p. 946. Petitions for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of these petitions.

DECEMBER 6, 2013

Dismissal Under Rule 46

No. 13–97. GENEVA-ROTH VENTURES, INC., DBA LOAN POINT USA *v.* KELKER. Sup. Ct. Mont. Certiorari dismissed under this Court's Rule 46.1. Reported below: 369 Mont. 254, 303 P. 3d 777.

Certiorari Granted

No. 13–298. ALICE CORPORATION PTY. LTD. *v.* CLS BANK INTERNATIONAL ET AL. C. A. Fed. Cir. Certiorari granted. Reported below: 717 F. 3d 1269.

DECEMBER 9, 2013

Certiorari Granted—Vacated and Remanded

No. 12–1475. BROADCOM CORP. *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS ET AL. C. A. Fed. Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *Atlantic Marine Constr. Co.* v. *United States Dist. Court for Western Dist. of Tex.*, *ante*, p. 49. Reported below: 526 Fed. Appx. 960.

Certiorari Dismissed

No. 13–7066. WILLIAMS *v.* FLORIDA. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and

certiorari dismissed. See this Court's Rule 39.8. Reported below: 120 So. 3d 563.

Miscellaneous Orders

No. D–2750. IN RE DISCIPLINE OF BAILEY. Donald A. Bailey, of Harrisburg, 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–2751. IN RE DISCIPLINE OF JAEGER. Hugh D. Jaeger, of Wayzata, Minn., 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–2752. IN RE DISCIPLINE OF MURRAY. Matthew B. Murray, of Charlottesville, Va., 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–2753. IN RE DISCIPLINE OF SIEGEL. Martin J. Siegel, of Pennsville, N. J., 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–2754. IN RE DISCIPLINE OF SAIA. Frank R. Saia, of Longmeadow, Mass., 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–2755. IN RE DISCIPLINE OF PATTON. Raymond Vaughn Patton, of Brentwood, 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–2756. IN RE DISCIPLINE OF MCCARTHY. Daniel Thomas McCarthy, of Phoenix, Ariz., 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–2757. IN RE DISCIPLINE OF MALVONE. Neil A. Malvone, of Milltown, N. J., 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. 13M60. DALENKO *v.* NEWS & OBSERVER PUBLISHING CO., DBA THE NEWS & OBSERVER. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 13M61. ARMSTRONG *v.* UNITED STATES; and

No. 13M62. JUSTICE *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE. Motions for leave to file petitions for writs of certiorari with supplemental appendixes under seal granted.

No. 13M63. CACIOPPO *v.* TOWN OF VAIL, COLORADO. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 12–1168. MCCULLEN ET AL. *v.* COAKLEY, ATTORNEY GENERAL OF MASSACHUSETTS, ET AL. C. A. 1st Cir. [Certiorari granted, 570 U. S. 916.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–1173. MARVIN M. BRANDT REVOCABLE TRUST ET AL. *v.* UNITED STATES. C. A. 10th Cir. [Certiorari granted, 570 U. S. 947.] Motion of Owners' Counsel of America et al. for leave to file brief as *amici curiae* granted.

No. 12–1200. EXECUTIVE BENEFITS INSURANCE AGENCY *v.* ARKISON, CHAPTER 7 TRUSTEE OF THE ESTATE OF BELLINGHAM INSURANCE AGENCY, INC. C. A. 9th Cir. [Certiorari granted, 570 U. S. 916.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–1281. NATIONAL LABOR RELATIONS BOARD *v.* NOEL CANNING ET AL. C. A. D. C. Cir. [Certiorari granted, 570 U. S. 916.] Motion of Senate Republican Leader Mitch McConnell et al.

for leave to participate in oral argument as *amici curiae* and for divided argument granted, and the time is to be divided as follows: 45 minutes for petitioner, 30 minutes for respondent Noel Canning, and 15 minutes for *amici curiae* Senate Republican Leader Mitch McConnell et al. Motion of Professor Victor Williams for leave to participate in oral argument as *amicus curiae* and for divided argument denied.

No. 12–8561. PAROLINE *v.* UNITED STATES ET AL. C. A. 5th Cir. [Certiorari granted, 570 U. S. 931.] Motion of the Solicitor General for divided argument granted. Motion of Professor Adam Lamparello et al. for leave to file brief as *amici curiae* out of time denied.

No. 13–5750. SANDERS *v.* MIDLAND FUNDING LLC ET AL. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 949] denied.

No. 13–5881. BACH *v.* MILWAUKEE COUNTY, WISCONSIN, ET AL. Ct. App. Wis. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 972] denied.

No. 13–6659. BENHAM *v.* HAGEN ET AL. C. A. 9th Cir.;

No. 13–6788. DILTS ET VIR *v.* COLD SPRING FOREST SECTION 1 HOMEOWNERS ASSN., INC., ET AL. Sup. Ct. App. W. Va.;

No. 13–6925. RUSHIN *v.* CITY COUNCIL. C. A. 6th Cir.;

No. 13–7016. JERNIGAN *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir.; and

No. 13–7154. MATEI *v.* KANSAS. Ct. App. Kan. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until December 30, 2013, 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. 13–7310. IN RE JACKSON;

No. 13–7351. IN RE NIE; and

No. 13–7355. IN RE THOMPSON. Petitions for writs of habeas corpus denied.

No. 13–6734. IN RE RIVERA; and

No. 13–6966. IN RE SHRADER. Petitions for writs of mandamus denied.

Certiorari Denied

No. 12–550. ALPHA I, L. P., ET AL. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 682 F. 3d 1009.

No. 12–10941. MOORE *v.* REVLON CONSUMER PRODUCTS CORP. ET AL. Ct. App. Ga. Certiorari denied. Reported below: 316 Ga. App. XXIV.

No. 13–99. CRISPIN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 3d Cir. Certiorari denied. Reported below: 708 F. 3d 507.

No. 13–188. BAKER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 713 F. 3d 558.

No. 13–256. HEGAB *v.* LONG, DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 716 F. 3d 790.

No. 13–289. PFIZER INC. ET AL. *v.* KAISER FOUNDATION HEALTH PLAN, INC., ET AL. (Reported below: 712 F. 3d 21); PFIZER INC. ET AL. *v.* HARDEN MANUFACTURING CORP. ET AL. (712 F. 3d 60); and PFIZER INC. ET AL. *v.* AETNA, INC. (712 F. 3d 51). C. A. 1st Cir. Certiorari denied.

No. 13–290. ARTHREX, INC. *v.* SMITH & NEPHEW, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 502 Fed. Appx. 945.

No. 13–416. GRIFFIN ET AL. *v.* ABN AMRO MORTGAGE GROUP, INC., ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 240.

No. 13–424. YODER *v.* UNIVERSITY OF LOUISVILLE ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 537.

No. 13–428. LAMBEY *v.* EIGHTH JUDICIAL DISTRICT COURT OF NEVADA, CLARK COUNTY, ET AL. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1132.

No. 13–429. BAPTE, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BAPTE, DECEASED, ET AL. *v.* WEST CARIBBEAN AIRWAYS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 715 F. 3d 1290.

No. 13–434. Floyd et al. *v.* Town of Hollywood, South Carolina. Sup. Ct. S. C. Certiorari denied. Reported below: 403 S. C. 466, 744 S. E. 2d 161.

No. 13–438. Renaissance Art Investors, LLC *v.* AXA Art Insurance Corp. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 102 App. Div. 3d 604, 961 N. Y. S. 2d 31.

No. 13–464. Morley *v.* Farnese. Sup. Ct. Pa. Certiorari denied. Reported below: 620 Pa. 287, 67 A. 3d 758.

No. 13–465. Morley *v.* Field et al. Sup. Ct. Pa. Certiorari denied. Reported below: 620 Pa. 288, 67 A. 3d 758.

No. 13–503. Pennington *v.* University of Arkansas Board of Trustees et al. C. A. 8th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 567.

No. 13–505. Read et ux. *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 470.

No. 13–520. Evance *v.* Trumann Health Services, LLC, aka Trumann Health & Rehabilitation Center, et al. C. A. 8th Cir. Certiorari denied. Reported below: 719 F. 3d 673.

No. 13–521. Adams *v.* Michigan Judicial Tenure Commission. Sup. Ct. Mich. Certiorari denied. Reported below: 494 Mich. 162, 833 N. W. 2d 897.

No. 13–525. Lindsey *v.* Highwoods Realty Limited Partnership et al. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 203.

No. 13–528. Rojas *v.* Anderson et al. C. A. 10th Cir. Certiorari denied. Reported below: 727 F. 3d 1000.

No. 13–547. Convolve, Inc. *v.* Compaq Computer Corp. et al. C. A. Fed. Cir. Certiorari denied. Reported below: 527 Fed. Appx. 910.

No. 13–549. Boeri *v.* United States. C. A. Fed. Cir. Certiorari denied. Reported below: 724 F. 3d 1367.

No. 13–558. Lorentzen *v.* Omer et al. C. A. 10th Cir. Certiorari denied. Reported below: 486 Fed. Appx. 749.

No. 13–561. HOFFECKER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–566. KANOFSKY *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 3d Cir. Certiorari denied. Reported below: 520 Fed. Appx. 95.

No. 13–571. PACCHIOLI *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 718 F. 3d 1294.

No. 13–577. MOODY, ON BEHALF OF J. M. *v.* NEW YORK CITY DEPARTMENT OF EDUCATION ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 513 Fed. Appx. 95.

No. 13–5583. DAVILA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–5625. GOMEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 716 F. 3d 1.

No. 13–5717. THOMAS *v.* ITT EDUCATIONAL SERVICES, INC. C. A. 5th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 259.

No. 13–5766. GRAHAM-WRIGHT *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 715 F. 3d 598.

No. 13–5860. RODRIGUEZ *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied. Reported below: 378 S. W. 3d 486.

No. 13–5888. MISSUD *v.* NEVADA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 534.

No. 13–6056. OWENS *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2012–2548 (La. 4/26/13), 112 So. 3d 838.

No. 13–6096. DASH *v.* CHASEN ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 791.

No. 13–6190. COLE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6422. CORNER *v.* PEREZ, SECRETARY OF LABOR. C. A. 7th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 942.

No. 13–6642. HOLMES *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 229, 744 S. E. 2d 701.

No. 13–6643. HARRISON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6644. FLEMMING *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied.

No. 13–6649. PONTE *v.* FIA CARD SERVICES, N. A., ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6650. HILL *v.* SEVEN ELEVEN CORP. ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6651. GAMBINO *v.* WHITNEY ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6652. GRAY *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–0620 (La. 7/31/13), 119 So. 3d 599.

No. 13–6653. GAMBLE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6665. LOUGHMILLER *v.* DUFFY, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 695.

No. 13–6666. ALBERTO SUAREZ *v.* TRIMBLE. C. A. 9th Cir. Certiorari denied.

No. 13–6670. PAPES *v.* CITIMORTGAGE, INC. Ct. App. Minn. Certiorari denied.

No. 13–6674. WILSON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 32 A. 3d 284.

No. 13–6677. NIFAS *v.* COLEMAN ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 528 Fed. Appx. 132.

No. 13–6679. DAVIS *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 141 So. 3d 189.

No. 13–6681. WILLIAMS *v.* VIRGINIA ET AL. Sup. Ct. Va. Certiorari denied.

No. 13–6682. VANEGAS *v.* BITER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6684. ROMERO *v.* TEXAS. Ct. App. Tex., 4th Dist. Certiorari denied.

No. 13–6687. Rodriguez *v.* Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–6688. Baptiste *v.* Foulk, Acting Warden. C. A. 9th Cir. Certiorari denied.

No. 13–6690. Brunsting *v.* Colorado. Sup. Ct. Colo. Certiorari denied. Reported below: 307 P. 3d 1073.

No. 13–6703. Williams *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–6713. Antonmarchi *v.* Consolidated Edison Company of New York, Inc. C. A. 2d Cir. Certiorari denied. Reported below: 514 Fed. Appx. 33.

No. 13–6714. Robertson *v.* Cartinhour et al. C. A. D. C. Cir. Certiorari denied.

No. 13–6716. Mayes *v.* Maryland. Ct. Sp. App. Md. Certiorari denied. Reported below: 209 Md. App. 776.

No. 13–6719. Luongo *v.* Massachusetts Department of Developmental Services et al. C. A. 1st Cir. Certiorari denied.

No. 13–6720. Kunselman *v.* Scott, Governor of Florida, et al. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 13–6721. Kinter *v.* Boltz et al. C. A. 6th Cir. Certiorari denied.

No. 13–6723. Williams *v.* Publish America. Cir. Ct. Frederick County, Md. Certiorari denied.

No. 13–6724. Craig S. *v.* Donna S. App. Div., Sup. Ct. N. Y., 1st Jud. Dept. Certiorari denied. Reported below: 101 App. Div. 3d 505, 954 N. Y. S. 2d 876.

No. 13–6729. Jinks *v.* Matthews et al. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 913.

No. 13–6735. Spano *v.* McAvoy et al. C. A. 2d Cir. Certiorari denied.

No. 13–6736. Roberts *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–6740. RAYESS *v.* EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES. Sup. Ct. Ohio. Certiorari denied. Reported below: 134 Ohio St. 3d 509, 2012-Ohio-5676, 983 N. E. 2d 1267.

No. 13–6746. CONNOR *v.* TERRITORY OF THE VIRGIN ISLANDS. Sup. Ct. V. I. Certiorari denied. Reported below: 59 V. I. 286.

No. 13–6747. DEVEAUX *v.* NEW YORK. Sup. Ct. N. Y., New York County. Certiorari denied.

No. 13–6758. MINOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 117 So. 3d 412.

No. 13–6761. CARTWRIGHT *v.* SUPERIOR COURT OF CALIFORNIA, KERN COUNTY. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 13–6762. CONLEY *v.* ANGLIN, WARDEN, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 598.

No. 13–6763. CORONA *v.* MILLER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 740.

No. 13–6769. JONES ET AL. *v.* BEVERLY HILLS UNIFIED SCHOOL DISTRICT ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 667.

No. 13–6770. LESLIE *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6777. BELL *v.* O'BRIEN. C. A. 5th Cir. Certiorari denied. Reported below: 547 Fed. Appx. 397.

No. 13–6781. MILLER *v.* KEYSTONE BLIND ASSOCIATION/TPM. C. A. 3d Cir. Certiorari denied. Reported below: 547 Fed. Appx. 100.

No. 13–6786. WINSTEAD *v.* JACKSON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 509 Fed. Appx. 139.

No. 13–6798. BROADNAX *v.* BERGHUIS, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6818. HAMPTON *v.* DOTSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6820. PROCEVIAT *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 524 Fed. Appx. 674.

No. 13–6844. STAPLE-BEY *v.* BURT, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6848. BEDFORD *v.* PORT OF HOUSTON AUTHORITY ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–6887. EVANS *v.* PATRICK, GOVERNOR OF MASSACHUSETTS, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6910. PAYNE *v.* ROMANOWSKI, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6924. MAJOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6929. SMITH *v.* BRUNSMAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6947. FLORES *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 730.

No. 13–6948. PEGUES *v.* HAINES, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–6956. BARBER *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 505 Fed. Appx. 278.

No. 13–6970. LANGFORD *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6982. WILSON *v.* MISSISSIPPI. Sup. Ct. Miss. Certiorari denied.

No. 13–6987. PHILLIP *v.* TERRITORY OF THE VIRGIN ISLANDS. Sup. Ct. V. I. Certiorari denied. Reported below: 58 V. I. 569.

No. 13–6990. MERCADO *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied. Reported below: 216 Cal. App. 4th 67, 156 Cal. Rptr. 3d 804.

No. 13–7018. KOONCE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 120 So. 3d 561.

No. 13–7019. OCHOA *v.* RUBIN, AKA RUBIN OCHOA. Super. Ct. Pa. Certiorari denied.

No. 13–7029. JENNER *v.* MEDINA, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 691.

No. 13–7030. JEEP *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7032. ZUCK *v.* NEBRASKA. Ct. App. Neb. Certiorari denied. Reported below: 20 Neb. App. lii.

No. 13–7040. WASHINGTON *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 106 So. 3d 941.

No. 13–7059. BRAND *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–7093. WATSON *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 366 N. C. 601, 743 S. E. 2d 640.

No. 13–7137. MCINTYRE *v.* HORRY COUNTY, SOUTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 158.

No. 13–7142. HUDSON *v.* MIDDLE FLINT BEHAVIORAL HEALTHCARE. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 594.

No. 13–7147. RODGERS *v.* WYOMING. Dist. Ct. Wyo., Platte County. Certiorari denied.

No. 13–7171. ANTONIO COSSIO *v.* DEPARTMENT OF THE AIR FORCE. C. A. Fed. Cir. Certiorari denied. Reported below: 527 Fed. Appx. 932.

No. 13–7199. OBRIECHT *v.* FOSTER, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 727 F. 3d 744.

No. 13–7214. JACQUES *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7232. ARCHER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7235. GIBSON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–7237. WEST *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 280.

No. 13–7240. GRISSETT ET AL. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 907.

No. 13–7241. SANDERS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 708 F. 3d 976.

No. 13–7245. BORJA-ANTUNES, AKA MARTINEZ-JIMIENEZ, AKA BORCHA *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 882.

No. 13–7247. KEYES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 577.

No. 13–7248. MAY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 465.

No. 13–7251. BRYANT *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 711 F. 3d 364.

No. 13–7252. NNAJI *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7253. OLIVER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 474.

No. 13–7254. PATTERSON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–7255. LUGO-GUTIERREZ *v.* UNITED STATES (Reported below: 539 Fed. Appx. 344); OLVERA-ROJAS *v.* UNITED STATES (539 Fed. Appx. 399); TORRES-FIGUEROA *v.* UNITED STATES (539 Fed. Appx. 363); VASQUEZ-FONSECA, AKA VASQUEZ, AKA VASQUEZ FONSECA, AKA ROA, AKA VARQUEZ FONSECA *v.* UNITED STATES (539 Fed. Appx. 372); ANTONIO ESCOBAR *v.* UNITED STATES (539 Fed. Appx. 377); TEJEDA-SILVA *v.* UNITED STATES (539 Fed. Appx. 370); RIVERA-ALFARO, AKA RIVERA *v.* UNITED STATES (538 Fed. Appx. 598); SANCHEZ-HERNANDEZ, AKA HERNANDEZ-HERNANDEZ *v.* UNITED STATES (539 Fed. Appx. 463); CHILEL-SOTO, AKA SOTO-LOPEZ *v.* UNITED STATES (541 Fed. Appx. 488); VAZQUEZ-HERNANDEZ, AKA VASQUEZ, AKA VASQUEZ HERNANDEZ *v.* UNITED STATES (543 Fed. Appx. 406); BARRIENTOS SORRIANO *v.* UNITED STATES (543 Fed. Appx. 387); FLORES-DIAZ, AKA DIAZ-FLORES *v.* UNITED STATES (543 Fed. Appx. 384);

Dominguez-Navarro *v.* United States (543 Fed. Appx. 445); Granados-Rodriguez *v.* United States (543 Fed. Appx. 441); and Perez-Ramos *v.* United States (543 Fed. Appx. 443). C. A. 5th Cir. Certiorari denied.

No. 13–7256. Rojas-Pedroza *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 716 F. 3d 1253.

No. 13–7257. Angilau *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 717 F. 3d 781.

No. 13–7260. McAtee *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 414.

No. 13–7261. Ali *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 537 Fed. Appx. 117.

No. 13–7267. Medearis *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 590.

No. 13–7269. De La Cruz-Diaz *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 592.

No. 13–7279. Carlock *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 661.

No. 13–7281. Bernacet *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 724 F. 3d 269.

No. 13–7284. Sanchez-Martinez *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 693.

No. 13–7285. Garcia-Ocampo *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 600.

No. 13–7286. Noble *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 654.

No. 13–7289. Velasco *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 759.

No. 13–7295. Censke *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 382.

No. 13–7299. Cuff *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 411.

No. 13–7300. Dunbar *v.* United States. C. A. 10th Cir. Certiorari denied. Reported below: 718 F. 3d 1268.

No. 13–7301. POTEETE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 418.

No. 13–7304. ALSTON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 722 F. 3d 603.

No. 13–7308. JONES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7309. LOGAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 498.

No. 13–7311. WATTS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 748.

No. 13–542. KLEIN *v.* TAP PHARMACEUTICAL PRODUCTS, INC., ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 518 Fed. Appx. 583.

No. 13–6196. BROWN *v.* WAL-MART STORES, INC., ET AL. C. A. 6th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 507 Fed. Appx. 543.

No. 13–6712. BITON *v.* UNITED CONTINENTAL AIRLINES ET AL. C. A. 3d Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–6725. SEARLES *v.* BERKEL ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–6748. MCWEAY *v.* CITIBANK, N. A. C. A. 11th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 521 Fed. Appx. 784.

No. 13–7270. DERROW *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 532 Fed. Appx. 574.

Rehearing Denied

No. 12–1327. TAYLOR *v.* WINNECOUR, *ante*, p. 820;
No. 12–1334. GOLDBLATT *v.* GEIGER ET AL., *ante*, p. 821;

No. 12–1440. GOLDBLATT *v.* DOERTY, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS JUDGE OF THE SUPERIOR COURT OF WASHINGTON, KING COUNTY, *ante*, p. 826;

No. 12–8616. KOUMJIAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 830;

No. 12–10005. JOHNSON *v.* VARGO, WARDEN, *ante*, p. 836;

No. 12–10065. MILLSAP *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, *ante*, p. 837;

No. 12–10072. MCFADDEN *v.* COHEN, WARDEN, *ante*, p. 837;

No. 12–10082. MORRIS *v.* MCALLESTER ET AL., *ante*, p. 838;

No. 12–10125. WILKINS *v.* ALLEN, *ante*, p. 839;

No. 12–10354. KAMINSKI *v.* NEW YORK ET AL., *ante*, p. 846;

No. 12–10397. WASHINGTON *v.* WALL, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS, *ante*, p. 848;

No. 12–10499. SNEED *v.* FLORIDA DEPARTMENT OF CORRECTIONS, *ante*, p. 851;

No. 12–10566. ROBINSON *v.* KINGS COUNTY DISTRICT ATTORNEY'S OFFICE ET AL., *ante*, p. 855;

No. 12–10634. YOUNGBLOOD *v.* CHICO PAROLE OUTPATIENT CLINIC ET AL., *ante*, p. 859;

No. 12–10685. IN RE SEAWRIGHT, *ante*, p. 813;

No. 12–10705. JOST *v.* HARTLEY, WARDEN, *ante*, p. 863;

No. 12–10747. TELFAIR *v.* UNITED STATES, *ante*, p. 866;

No. 12–10771. SEXTON-WALKER *v.* GREAT EXPRESSIONS DENTAL CENTERS, P. C., *ante*, p. 867;

No. 12–10778. PRICE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 868;

No. 12–10802. SLEWION *v.* WEINSTEIN ET AL., *ante*, p. 869;

No. 12–10866. DOUGLAS *v.* UNITED STATES, *ante*, p. 873;

No. 12–10873. PARKER *v.* GEORGIA, *ante*, p. 873;

No. 12–10914. LEAL *v.* OHIO SECRETARY OF STATE, *ante*, p. 875;

No. 12–10928. WEN LIU *v.* UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, *ante*, p. 876;

No. 12–10996. WARD *v.* DANIELS, WARDEN, ET AL., *ante*, p. 880;

No. 12–10997. WATKINS *v.* MACLAREN, WARDEN, *ante*, p. 880;

No. 13–178. MACNEILL *v.* MERIT SYSTEMS PROTECTION BOARD, *ante*, p. 889;

No. 13–229. YADAV *v.* BROOKHAVEN NATIONAL LABORATORY ET AL., *ante*, p. 955;

No. 13–5003. GOLEMBIEWSKI *v.* LOGIE ET AL., *ante*, p. 890;

No. 13–5051. KEITH *v.* MCCABE, WARDEN, *ante*, p. 893;

No. 13–5057. EASLEY *v.* DIETRICH ET AL., *ante*, p. 894;

No. 13–5079. ROSS *v.* DANFORTH ET AL., *ante*, p. 895;

No. 13–5195. LASTER *v.* KRYSTAL CO. ET AL., *ante*, p. 902;

No. 13–5204. WALKER *v.* LAWRENCEVILLE APARTMENTS, *ante*, p. 902;

No. 13–5305. PAGONIS *v.* TEXAS DEPARTMENT OF CRIMINAL JUSTICE ET AL., *ante*, p. 908;

No. 13–5341. PATRICK ET AL. *v.* ALBUQUERQUE SCHOOL DISTRICT ET AL., *ante*, p. 910;

No. 13–5438. SMITH *v.* CLEMENTS, WARDEN, *ante*, p. 915;

No. 13–5454. SANDERS *v.* VIRGINIA ET AL., *ante*, p. 916;

No. 13–5494. IN RE RAMOS, *ante*, p. 813;

No. 13–5509. YOUNGBLOOD *v.* EVANS, WARDEN, ET AL., *ante*, p. 919;

No. 13–5589. ADAMS *v.* PALMER, WARDEN, *ante*, p. 956;

No. 13–5595. CORBETT *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY, *ante*, p. 923;

No. 13–5598. PARKER *v.* CLARK, SUPERIOR COURT OF GEORGIA, GWINNETT COUNTY, *ante*, p. 956;

No. 13–5605. MAHMOOD *v.* HOLDER, ATTORNEY GENERAL, *ante*, p. 923;

No. 13–5607. LASTER *v.* CITY OF ALBANY, GEORGIA, WATER, GAS & LIGHT COMPANY, *ante*, p. 924;

No. 13–5634. RODRIGUEZ *v.* FLORIDA, *ante*, p. 957;

No. 13–5665. WHALEN *v.* MISSOURI, *ante*, p. 958;

No. 13–5688. BOLARINWA *v.* KAPLAN, SUPERINTENDENT, BEDFORD HILLS CORRECTIONAL FACILITY, *ante*, p. 927;

No. 13–5690. IN RE MOORE, *ante*, p. 950;

No. 13–5693. THOMPSON *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 958;

No. 13–5729. MCFADDEN *v.* GAINEY, *ante*, p. 959;

No. 13–5769. FULMER *v.* TEXAS, *ante*, p. 960;

No. 13–5786. LEAL *v.* EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ET AL., *ante*, p. 930;

No. 13–5884. WILLIAMS *v.* CALIFORNIA, *ante*, p. 976;

No. 13–5932. OLIVER *v.* MCGRADY, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT RETREAT, ET AL., *ante*, p. 935;

No. 13–6088. PAPADOPOULOS *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL., *ante*, p. 963; and

No. 13–6185. HUDSPETH *v.* UNITED STATES, *ante*, p. 966. Petitions for rehearing denied.

DECEMBER 11, 2013

Dismissal Under Rule 46

No. 12–1453. MARINER'S COVE TOWNHOMES ASSN., INC. *v.* UNITED STATES. C. A. 5th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 705 F. 3d 540.

Miscellaneous Order

No. 13A594. ROPER, WARDEN *v.* NICKLASSON. Application to vacate the stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit on December 9, 2013, presented to JUSTICE ALITO, and by him referred to the Court, granted.

JUSTICE GINSBURG, with whom JUSTICE BREYER, JUSTICE SOTOMAYOR, and JUSTICE KAGAN join, dissenting.

I would deny the application to vacate the stay of execution entered by the Court of Appeals. See *Bowersox* v. *Williams*, 517 U. S. 345, 347 (1996) (GINSBURG, J., dissenting) ("At the very least, before acting irretrievably, this Court might have invited prompt clarification of the Court of Appeals' [stay] order. Appreciation of our own fallibility, and respect for the judgment of an appellate tribunal closer to the scene than we are, as I see it, demand as much.").

Certiorari Denied

No. 13–7766 (13A598). NICKLASSON *v.* MISSOURI. Sup. Ct. Mo. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

DECEMBER 13, 2013

Certiorari Granted

No. 13–316. LOUGHRIN *v.* UNITED STATES. C. A. 10th Cir. Certiorari granted. Reported below: 710 F. 3d 1111.

No. 12–751. FIFTH THIRD BANCORP ET AL. *v.* DUDENHOEFFER ET AL. C. A. 6th Cir. Certiorari granted limited to Question 1 presented by the petition. Reported below: 692 F. 3d 410.

DECEMBER 16, 2013

Certiorari Dismissed

No. 13–6773. JONES *v.* GREENWAY MERCEDES 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. Reported below: 534 Fed. Appx. 244.

Miscellaneous Orders

No. 13A471. GRAVES *v.* DEPARTMENT OF THE NAVY. C. A. Fed. Cir. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. 13M64. BOVA *v.* MASSACHUSETTS DEPARTMENT OF CHILDREN AND FAMILIES. Motion to direct the Clerk to file petition for writ of certiorari out of time under this Court's Rule 14.5 denied.

No. 13M65. CHOICE *v.* TEXAS. Motion to direct the Clerk to file petition for writ of certiorari out of time denied.

No. 13–318. O'NEILL ET AL. *v.* AL RAJHI BANK ET AL.; and O'NEILL ET AL. *v.* ASAT TRUST REG. ET AL. C. A. 2d Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–5655. HAILEY *v.* DONAHOE, POSTMASTER GENERAL. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied.

No. 13–5830. SMITH *v.* IDAHO. Sup. Ct. Idaho. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 13–5841. SMITH *v.* IDAHO. Ct. App. Idaho. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 806] denied.

No. 13–5862. WHEELER *v.* DESAUTEL ET AL. C. A. 8th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 970] denied.

No. 13–6187. SWEENEY *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1007] denied.

No. 13–6226. ZIED-CAMPBELL ET VIR *v.* PENNSYLVANIA ET AL. C. A. 3d Cir. Motion of petitioners for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1007] denied.

No. 13–6538. BURTTON *v.* UNITED STATES. C. A. 8th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 989] denied.

No. 13–6608. DIAZ *v.* UNITED STATES. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 989] denied.

No. 13–6834. IN RE HUNTER. Motion of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until January 6, 2014, 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. 13–7425. IN RE LAND; and

No. 13–7488. IN RE WHITEHEAD. Petitions for writs of habeas corpus denied.

No. 13–573. IN RE DEL RIO. Petition for writ of mandamus denied.

Certiorari Denied

No. 12–312. MULHALL *v.* UNITE HERE LOCAL 355 ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 667 F. 3d 1211.

No. 12–9758. SCHAEFFER *v.* KANSAS. Sup. Ct. Kan. Certiorari denied. Reported below: 295 Kan. 872, 286 P. 3d 889.

No. 12–10308. HERNANDEZ *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 390 S. W. 3d 310.

No. 13–56. HORNBECK OFFSHORE SERVICES, LLC, ET AL. *v.* JEWELL, SECRETARY OF THE INTERIOR, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 713 F. 3d 787.

No. 13–180. HARKONEN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 633.

No. 13–185. MINNESOTA MAJORITY ET AL. *v.* MANSKY, ELECTIONS MANAGER FOR RAMSEY COUNTY, ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 708 F. 3d 1051.

No. 13–187. STEEL INSTITUTE OF NEW YORK *v.* CITY OF NEW YORK, NEW YORK. C. A. 2d Cir. Certiorari denied. Reported below: 716 F. 3d 31.

No. 13–278. STOCKER ET UX. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 705 F. 3d 225.

No. 13–302. MORROW ET AL. *v.* BALASKI ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 719 F. 3d 160.

No. 13–308. DABNEY *v.* TD BANK, N. A. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–313. GRAND CANYON SKYWALK DEVELOPMENT, LLC *v.* GRAND CANYON RESORT CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 715 F. 3d 1196.

No. 13–421. LIBERTARIAN PARTY OF MICHIGAN ET AL. *v.* JOHNSON, MICHIGAN SECRETARY OF STATE, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 714 F. 3d 929.

No. 13–441. CEPHALON, INC. *v.* APOTEX, INC. C. A. Fed. Cir. Certiorari denied. Reported below: 500 Fed. Appx. 959.

No. 13–446. FISCHER *v.* GLOBAL CONNECTOR RESEARCH GROUP, INC. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 13–447. LOCKHEED MARTIN CORP. ET AL. *v.* ABBOTT ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 725 F. 3d 803.

No. 13–453. DONGBU TOUR & TRAVEL, INC., ET AL. *v.* TAE IN KIM ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 229.

No. 13–458. Shumin Zhang *v.* Sugars et al. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 13–459. Gonzalez Guilbot et al. *v.* Guilbot Serros de Gonzalez, Individually and as Administrator of the Estate of Luis Gonzalez y Vallejo, et al. Ct. App. Tex., 14th Dist. Certiorari denied. Reported below: 367 S. W. 3d 442.

No. 13–508. Akl *v.* Sebelius, Secretary of Health and Human Services. C. A. D. C. Cir. Certiorari denied.

No. 13–515. Hoffman *v.* Disciplinary Board of the Supreme Court of North Dakota. Sup. Ct. N. D. Certiorari denied. Reported below: 2013 ND 137, 834 N. W. 2d 636.

No. 13–572. Fahs Construction Group, Inc. *v.* Gray. C. A. 2d Cir. Certiorari denied. Reported below: 725 F. 3d 289.

No. 13–583. Brown *v.* United States. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 359.

No. 13–5459. Williams *v.* California. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 165, 294 P. 3d 1005.

No. 13–5574. Johnson *v.* New York; and
No. 13–5592. Moss *v.* New York. Ct. App. N. Y. Certiorari denied. Reported below: 21 N. Y. 3d 1, 989 N. E. 2d 9.

No. 13–6147. Pleasant *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 704 F. 3d 808.

No. 13–6771. Keegan *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–6772. Yun-Wen Lu *v.* UNUM Group. C. A. 9th Cir. Certiorari denied.

No. 13–6796. Padgett *v.* Sexton, Warden. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 590.

No. 13–6800. Allen *v.* Lamas, Superintendent, State Correctional Institution at Rockview, et al. C. A. 3d Cir. Certiorari denied.

No. 13–6802. Viola *v.* Arizona. Ct. App. Ariz. Certiorari denied.

No. 13–6816. PRIDE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6817. LEE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6823. EDWARDS *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–6824. DAVIS *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 979 N. E. 2d 1073.

No. 13–6830. HOSKINS *v.* MURREL ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–6832. FRANCIS *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied.

No. 13–6833. GARCIA *v.* DEPARTMENT OF INDUSTRIAL RELATIONS ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–6837. GONZALEZ *v.* GOODWIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–6839. MCINTOSH *v.* AYOTTE-MCINTOSH ET AL. Sup. Ct. N. H. Certiorari denied.

No. 13–6846. WILSON *v.* OAKLAND COUNTY PROBATION OFFICE. C. A. 6th Cir. Certiorari denied.

No. 13–6853. NICKERSON *v.* TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–6859. BONDS *v.* WILSON, SUPERINTENDENT, INDIANA STATE PRISON. C. A. 7th Cir. Certiorari denied.

No. 13–6860. BROWN *v.* ILLINOIS DEPARTMENT OF NATURAL RESOURCES. C. A. 7th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 930.

No. 13–6863. MORRIS *v.* TENNESSEE. C. A. 6th Cir. Certiorari denied.

No. 13–6926. SANFORD *v.* KOLONGO ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 342.

No. 13–6963. GIBBS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 10th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 950.

No. 13–6989. OFARRIT-FIGUEROA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 239.

No. 13–6997. TATUM *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied. Reported below: 466 Mass. 45, 992 N. E. 2d 987.

No. 13–7006. HELM *v.* LIEM ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 643.

No. 13–7065. BECKETT *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 585.

No. 13–7068. MENDOZA *v.* LEGRAND, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7134. SAINTCALLE *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 178 Wash. 2d 34, 309 P. 3d 326.

No. 13–7193. SMITH *v.* MOORE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7263. BEHL *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 121 So. 3d 1037.

No. 13–7303. MORROW *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7316. SHABAZZ *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 533 Fed. Appx. 158.

No. 13–7319. GRIER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 935.

No. 13–7321. CASTELLANOS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 716 F. 3d 828.

No. 13–7322. TAYLOR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 961.

No. 13–7325. COUGHLIN *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 527 Fed. Appx. 3.

No. 13–7326. COLLINS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 743.

No. 13–7328. DJEREDJIAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 732.

No. 13–7329. XUE CHENG DONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 753.

No. 13–7330. YORK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7335. PEREZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 674.

No. 13–7337. JONES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 562.

No. 13–7338. JONES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 769.

No. 13–7340. DAVIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 576.

No. 13–7341. DIAZ-PLAZA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–7343. PAXSON *v.* CHANDLER, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 475.

No. 13–7346. BROOKS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 670.

No. 13–7348. BROOKS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 727 F. 3d 1291.

No. 13–7349. BANE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 720 F. 3d 818.

No. 13–7353. WILLIAMS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–6291. ZEIGLER *v.* FLORIDA. Sup. Ct. Fla. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 116 So. 3d 255.

Rehearing Denied

No. 12–8536. MAXWELL *v.* STRAUGHN, WARDEN, *ante*, p. 829;

No. 12–10050. BRANHAM *v.* HARVANEK, WARDEN, *ante*, p. 837;

No. 12–10140. TORRES *v.* DAVIS ET AL., *ante*, p. 839;

No. 12–10359. COMMINS *v.* HABBERSTAD BMW ET AL., *ante*, p. 846;

No. 12–10501. BROMWELL ET AL. *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 851;

No. 12–10589. DUNSMORE *v.* SAN DIEGO COUNTY SHERIFF'S DEPARTMENT ET AL., *ante*, p. 857;

No. 12–10652. JEROME *v.* BARCELO CRESTLINE, INC., *ante*, p. 860;

No. 12–10660. WOODRUFF *v.* NATIONAL RAILROAD PASSENGER CORPORATION, AKA AMTRAK, *ante*, p. 861;

No. 12–10688. WATKINS *v.* UNITED STATES, *ante*, p. 862;

No. 12–10964. BURT *v.* UNITED STATES, *ante*, p. 878;

No. 13–242. HOLLANDER *v.* DAYSON, JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, ET AL., *ante*, p. 974;

No. 13–5026. CREEK *v.* UNITED STATES ET AL., *ante*, p. 892;

No. 13–5055. IN RE WELLS, *ante*, p. 813;

No. 13–5072. IN RE DE LA CRUZ, *ante*, p. 815;

No. 13–5087. IGLESIAS *v.* WAL-MART STORES, INC., *ante*, p. 895;

No. 13–5103. BARTLETT *v.* JACKSON, CORRECTIONAL ADMINISTRATOR, NASH CORRECTIONAL INSTITUTION, ET AL., *ante*, p. 896;

No. 13–5143. ALLEN *v.* BENNETT, SHERIFF, GLYNN COUNTY, GEORGIA, ET AL., *ante*, p. 899;

No. 13–5386. IGLESIAS *v.* WAL-MART STORES, INC., *ante*, p. 912;

No. 13–5433. ALLEN *v.* AVANCE, *ante*, p. 915;

No. 13–5515. WIGGINS *v.* ST. LUKES EPISCOPAL HEALTH SYSTEM, *ante*, p. 919;

No. 13–5552. VILLAFANA *v.* VIRGINIA, *ante*, p. 921;

No. 13–5883. CROMEANS *v.* ARKANSAS, *ante*, p. 976;

No. 13–5904. JONES *v.* MONTGOMERY, JUDGE, CRIMINAL COURT OF TENNESSEE, SULLIVAN COUNTY, ET AL., *ante*, p. 977;

No. 13–5948. VENTURA *v.* FLORIDA, *ante*, p. 961;

No. 13–6097. DOUCETTE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL., *ante*, p. 995;

No. 13–6099. BROWN *v.* MCCOLLUM, WARDEN, *ante*, p. 995;
No. 13–6119. WARE *v.* GEORGIA, *ante*, p. 996;
No. 13–6203. ROBLES *v.* UNITED STATES, *ante*, p. 966; and
No. 13–6237. CHANDLER *v.* LEWIS, WARDEN, *ante*, p. 978. Petitions for rehearing denied.

No. 13–328. SAGAR *v.* ORACLE CORP., *ante*, p. 983. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–5722. BLOOM *v.* UNITED STATES, *ante*, p. 946. Petition for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

JANUARY 2, 2014

Dismissal Under Rule 46

No. 13–480. MALLOY, GOVERNOR OF CONNECTICUT, ET AL. *v.* STATE EMPLOYEES BARGAINING AGENT COALITION ET AL. C. A. 2d Cir. Certiorari dismissed under this Court's Rule 46. Reported below: 718 F. 3d 126.

JANUARY 6, 2014

Miscellaneous Order

No. 13A687. HERBERT, GOVERNOR OF UTAH, ET AL. *v.* KITCHEN ET AL. Application for stay, presented to JUSTICE SOTOMAYOR, and by her referred to the Court, granted. Permanent injunction issued by the United States District Court for the District of Utah, case No. 2:13–cv–217, on December 20, 2013, is stayed pending final disposition of the appeal by the United States Court of Appeals for the Tenth Circuit.

JANUARY 7, 2014

Dismissal Under Rule 46

No. 13–5086. HOWELL *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari dismissed under this Court's Rule 46.

Miscellaneous Order

No. 13–8120 (13A702). IN RE MUHAMMAD. Application for stay of execution of sentence of death, presented to JUSTICE

THOMAS, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 13–7624 (13A649). MUHAMMAD *v.* CREWS, 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: 733 F. 3d 1065.

No. 13–8030 (13A674). MUHAMMAD, FKA KNIGHT *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: 132 So. 3d 176.

JUSTICE BREYER, dissenting.

I would grant the application for stay of execution and the petition for certiorari limited to the *Lackey* claim. See *Lackey* v. *Texas*, 514 U. S. 1045 (1995) (Stevens, J., respecting denial of certiorari); *Elledge* v. *Florida*, 525 U. S. 944 (1998) (BREYER, J., dissenting from denial of certiorari); *Knight* v. *Florida*, 528 U. S. 990, 993 (1999) (same); *Valle* v. *Florida*, 564 U. S. 1067 (2011) (BREYER, J., dissenting from denial of stay).

No. 13–8153 (13A710). MUHAMMAD, FKA KNIGHT *v.* CREWS, 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.

No. 13–8154 (13A711). MUHAMMAD, FKA KNIGHT *v.* CREWS, 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: 739 F. 3d 683.

JANUARY 10, 2014

Miscellaneous Orders

No. 11–681. HARRIS ET AL. *v.* QUINN, GOVERNOR OF ILLINOIS, ET AL. C. A. 7th Cir. [Certiorari granted, 570 U. S. 948.] Mo-

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

No. 12–1315. PETRELLA *v.* METRO-GOLDWYN-MAYER, INC., ET AL. C. A. 9th Cir. [Certiorari granted, 570 U. S. 948.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–9490. PRADO NAVARETTE ET AL. *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. [Certiorari granted, 570 U. S. 948.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

Certiorari Granted

No. 12–842. REPUBLIC OF ARGENTINA *v.* NML CAPITAL, LTD. C. A. 2d Cir. Certiorari granted. Reported below: 695 F. 3d 201.

No. 13–193. SUSAN B. ANTHONY LIST ET AL. *v.* DRIEHAUS ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 525 Fed. Appx. 415.

No. 13–301. UNITED STATES *v.* CLARKE ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 517 Fed. Appx. 689.

No. 13–339. CTS CORP. *v.* WALDBURGER ET AL. C. A. 4th Cir. Certiorari granted. Reported below: 723 F. 3d 434.

No. 13–369. NAUTILUS, INC. *v.* BIOSIG INSTRUMENTS, INC. C. A. Fed. Cir. Certiorari granted. Reported below: 715 F. 3d 891.

No. 12–761. POM WONDERFUL LLC *v.* COCA-COLA CO. C. A. 9th Cir. Certiorari granted. JUSTICE BREYER and JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 679 F. 3d 1170.

No. 12–786. LIMELIGHT NETWORKS, INC. *v.* AKAMAI TECHNOLOGIES, INC., ET AL. C. A. Fed. Cir. Certiorari granted. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 692 F. 3d 1301.

No. 13–461. AMERICAN BROADCASTING COS., INC., ET AL. *v.* AEREO, INC., FKA BAMBOOM LABS, INC. C. A. 2d Cir. Certio-

rari granted. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 712 F. 3d 676.

JANUARY 13, 2014

Certiorari Granted—Vacated and Remanded

No. 12–10871. NEWBOLD *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 *Miller* v. *United States*, 735 F. 3d 141 (CA4 2013). Reported below: 490 Fed. Appx. 614.

No. 13–343. UNITED STATES *v.* NEVADA PARTNERS FUND, LLC, BY AND THROUGH SAPPHIRE II, INC., TAX MATTERS PARTNER, ET AL. C. A. 5th Cir. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *United States* v. *Woods*, *ante*, p. 31. Reported below: 720 F. 3d 594.

No. 13–5423. NEATHERY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th 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 *Trevino* v. *Thaler*, 569 U. S. 413 (2013).

No. 13–6353. AVILES *v.* TEXAS. Ct. App. Tex., 4th 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 *Missouri* v. *McNeely*, 569 U. S. 141 (2013). Reported below: 385 S. W. 3d 110.

Certiorari Dismissed

No. 13–6979. COBBLE *v.* OUBRE, WARDEN. C. A. 11th Cir.; and

No. 13–6980. COBBLE *v.* COBB COUNTY POLICE DEPARTMENT. C. A. 11th Cir. Motions 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. 13–7046. DYDZAK *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. 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: 509 Fed. Appx. 653.

No. 13–7087. BAEZ *v.* GOODRICH, WARDEN, 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.

No. 13–7105. SIMON *v.* CITY OF ATLANTA, GEORGIA, ET AL. Super. Ct. Fulton County, Ga. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–7115. JOHNSON *v.* DAVIS, 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. Reported below: 536 Fed. Appx. 322.

No. 13–7143. CASEY *v.* FLORIDA. Sup. Ct. Fla. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8. Reported below: 120 So. 3d 559.

No. 13–7306. SIMS *v.* AMERICAN DEVELOPMENT GROUP ET AL. 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. 13–7332. VIVONE *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI. 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. 13–7426. JOHNSON *v.* UNITED STATES. 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*). JUSTICE KAGAN took no part in the consideration or decision of this motion and this petition.

No. 13–7656. DESMOND *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: 74 A. 3d 653.

Miscellaneous Orders

No. 13M54. NATIONAL COLLEGIATE ATHLETIC ASSN. *v.* KELLER ET AL. Motion of A&E Television Networks et al. for leave to file brief as *amici curiae* denied. Motion of National Collegiate Athletic Association for leave to intervene to file petition for writ of certiorari denied.

No. 13M66. DOE *v.* CLC ET AL. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record denied.

No. 13M67. BROWN *v.* LOPEZ, WARDEN;

No. 13M68. COLEMAN *v.* GAETZ, WARDEN; and

No. 13M69. MELOT ET UX. *v.* UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 13M70. ZOPATTI *v.* RANCHO DORADO HOMEOWNERS ASSN. ET AL. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 126, Orig. KANSAS *v.* NEBRASKA ET AL. Report of the Special Master received and ordered filed. Exceptions to the Report, with supporting briefs, may be filed within 45 days. Replies, if any, with supporting briefs, may be filed within 30 days. Surreplies, if any, with supporting briefs, may be filed within 30 days. [For earlier order herein, see, *e. g.*, 569 U. S. 916.]

No. 12–1184. OCTANE FITNESS, LLC *v.* ICON HEALTH & FITNESS, INC. C. A. Fed. Cir. [Certiorari granted, 570 U. S. 948.] Motion of petitioner for leave to file joint appendix under seal with redacted copies for the public record granted.

No. 12–9012. ROBERS *v.* UNITED STATES. C. A. 6th Cir. [Certiorari granted, *ante*, p. 973.] Motion of petitioner for appointment of counsel granted. Christopher Donovan, Esq., of Milwaukee, Wis., is appointed to serve as counsel for petitioner in this case.

No. 12–10882. HALL *v.* FLORIDA. Sup. Ct. Fla. [Certiorari granted, *ante*, p. 973.] Motion of Professor Adam Lamparello et al. for leave to file brief as *amici curiae* granted.

No. 13–115. WOOD ET AL. *v.* MOSS ET AL. C. A. 9th Cir. [Certiorari granted, *ante*, p. 1067.] Motion of petitioners to dispense with printing joint appendix granted.

No. 13–352. B&B HARDWARE, INC. *v.* HARGIS INDUSTRIES, INC., DBA SEALTITE BUILDING FASTENERS ET AL., ET AL. C. A. 8th Cir.;

No. 13–448. PICARD *v.* HSBC BANK PLC ET AL. C. A. 2d Cir.; and

No. 13–485. COMPTROLLER OF THE TREASURY OF MARYLAND *v.* WYNNE ET UX. Ct. App. Md. The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

No. 13–5756. HAGANS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir.;

No. 13–6892. TAGOE, AKA ROBERTS *v.* DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES ET AL. Ct. App. D. C.;

No. 13–7020. ORTIZ *v.* NEW YORK ET AL. C. A. 2d Cir.;

No. 13–7034. CANNON *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 4th Cir.;

No. 13–7117. KAHLER *v.* PENNSYLVANIA. Super. Ct. Pa.;

No. 13–7266. MENDEZ *v.* UNITED STATES. C. A. Fed. Cir.;

No. 13–7273. HESTER *v.* INDIANA STATE DEPARTMENT OF HEALTH. C. A. 7th Cir.; and

No. 13–7320. GRONER *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until February 3, 2014, 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. 13–6214. LUBLIN *v.* LUBLIN, NKA LAWSON. Sup. Ct. Nev. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1009] denied.

No. 13–6255. KEELING *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA. C. A. 3d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1008] denied.

No. 13–6326. BACH *v.* LINHART ET AL. Ct. App. Wis. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1022] denied.

No. 13–6428. KLAT *v.* MITCHELL REPAIR INFORMATION CO., LLC, ET AL. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1008] denied.

No. 13–6459. JOHNSON *v.* EDWARDS ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1069] denied.

No. 13–6908. TORDA, MOTHER OF TORDA *v.* FAIRFAX COUNTY SCHOOL BOARD. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1069] denied.

No. 13–7600. PAULL *v.* UNITED STATES. C. A. 6th Cir.; and

No. 13–7623. PAULL *v.* UNITED STATES. C. A. 6th Cir. Motions of petitioner for leave to proceed *in forma pauperis* denied. Petitioner is allowed until February 3, 2014, 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. JUSTICE KAGAN took no part in the consideration or decision of these motions.

No. 13–7543. In re Ortiz;
No. 13–7610. In re Ayers;
No. 13–7633. In re Olson;
No. 13–7812. In re Fuentes Alonso; and
No. 13–7867. In re Morrison. Petitions for writs of habeas corpus denied.

No. 13–6702. In re Tagliaferri et al.;
No. 13–6895. In re Biton; and
No. 13–7363. In re Lamb. Petitions for writs of mandamus denied.

No. 13–7145. In re Hien Anh Dao. 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. 13–7452. In re Marcusse. 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.

No. 13–510. In re Levy Gardens Partners 2007, L. P. Petition for writ of mandamus and/or prohibition denied.

No. 13–7372. In re Schmitz. Petition for writ of mandamus and/or prohibition denied. Justice Kagan took no part in the consideration or decision of this petition.

No. 13–6896. In re Biton. Petition for writ of prohibition denied.

Certiorari Denied

No. 12–1416. Mehaffy *v.* United States. C. A. Fed. Cir. Certiorari denied. Reported below: 499 Fed. Appx. 18.

No. 12–7954. Dawes, aka Lee, aka Bryan, aka Heyward, aka Neil *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 495 Fed. Appx. 117.

No. 12–10358. DuLaurence *v.* Telegen et al. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1101, 979 N. E. 2d 237.

No. 12–11003. HEATH *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 26 A. 3d 266.

No. 13–93. BUCK CREEK COAL CO. ET AL. *v.* SEXTON ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 706 F. 3d 756.

No. 13–116. ST. CROIX RENAISSANCE GROUP, L. L. L. P. *v.* ABRAHAM ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 719 F. 3d 270.

No. 13–144. SOUTHWEST PHARMACY SOLUTIONS, INC. *v.* CENTERS FOR MEDICARE AND MEDICAID SERVICES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 718 F. 3d 436.

No. 13–145. AMERICAN ROAD & TRANSPORTATION BUILDERS ASSN. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 705 F. 3d 453.

No. 13–165. GROSDIDIER *v.* ISAACSON, CHAIRMAN, BROADCASTING BOARD OF GOVERNORS. C. A. D. C. Cir. Certiorari denied. Reported below: 709 F. 3d 19.

No. 13–238. JUDICIAL WATCH, INC. *v.* DEPARTMENT OF DEFENSE ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 715 F. 3d 937.

No. 13–246. ONE AND KEN VALLEY HOUSING GROUP ET AL. *v.* MAINE STATE HOUSING AUTHORITY ET AL. C. A. 1st Cir. Certiorari denied. Reported below: 716 F. 3d 218.

No. 13–253. MANAGED PHARMACY CARE ET AL. *v.* SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.; and

No. 13–380. CALIFORNIA MEDICAL ASSN. ET AL. *v.* SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 716 F. 3d 1235.

No. 13–269. POWER INTEGRATIONS, INC. *v.* FAIRCHILD SEMICONDUCTOR INTERNATIONAL, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 711 F. 3d 1348.

No. 13–281. DACHNIWSKYJ *v.* OFFICE OF PERSONNEL MANAGEMENT ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 713 F. 3d 99.

No. 13–288. MHC FINANCING LIMITED PARTNERSHIP ET AL. *v.* CITY OF SAN RAFAEL, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 714 F. 3d 1118.

No. 13–291. CARPENTER *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–294. LESHIN ET AL. *v.* FEDERAL TRADE COMMISSION. C. A. 11th Cir. Certiorari denied. Reported below: 719 F. 3d 1227.

No. 13–303. ORGANIC SEED GROWERS AND TRADE ASSN. ET AL. *v.* MONSANTO CO. ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 718 F. 3d 1350.

No. 13–307. DEMAREE ET AL. *v.* FULTON COUNTY SCHOOL DISTRICT. C. A. 11th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 859.

No. 13–309. MAYO ET AL. *v.* BOARD OF EDUCATION OF PRINCE GEORGE'S COUNTY ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 713 F. 3d 735.

No. 13–324. LASSITER *v.* CITY OF PHILADELPHIA, PENNSYLVANIA, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 716 F. 3d 53.

No. 13–327. NELSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 712 F. 3d 498.

No. 13–332. TRAIL *v.* LOCAL 2850 UAW UNITED DEFENSE WORKERS OF AMERICA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 710 F. 3d 541.

No. 13–342. FOX *v.* BLUE CROSS & BLUE SHIELD OF FLORIDA INC. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 754.

No. 13–358. CLARK *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 717 F. 3d 790.

No. 13–373. KAPILA *v.* INTERNAL REVENUE SERVICE. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 840.

No. 13–387. KERMAN ET UX. *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 6th Cir. Certiorari denied. Reported below: 713 F. 3d 849.

No. 13–398. CSX TRANSPORTATION, INC. *v.* MD MALL ASSOCIATES, LLC, T/A MACDADE MALL ASSOCIATES, L. P. C. A. 3d Cir. Certiorari denied. Reported below: 715 F. 3d 479.

No. 13–402. HORNE, ATTORNEY GENERAL OF ARIZONA, ET AL. *v.* ISAACSON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 716 F. 3d 1213.

No. 13–415. COUNTY OF LOS ANGELES, CALIFORNIA *v.* GOLDSTEIN. C. A. 9th Cir. Certiorari denied. Reported below: 715 F. 3d 750.

No. 13–437. ENTERTAINMENT PRODUCTIONS, INC., ET AL. *v.* SHELBY COUNTY, TENNESSEE, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 721 F. 3d 729.

No. 13–442. REPUBLICAN PARTY OF NEVADA *v.* MILLER, NEVADA SECRETARY OF STATE, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 722 F. 3d 1128.

No. 13–463. PARAMOUNT CONTRACTORS & DEVELOPERS, INC., ET AL. *v.* CITY OF LOS ANGELES, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 614.

No. 13–466. ADVANCED MICROTHERM, INC., ET AL. *v.* NORMAN WRIGHT MECHANICAL EQUIPMENT CORP. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 612.

No. 13–468. LEVY GARDENS PARTNERS 2007, L. P. *v.* UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA. C. A. 5th Cir. Certiorari denied.

No. 13–470. COULTER *v.* STUDENY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 522 Fed. Appx. 147.

No. 13–474. TRITON SCHIFFAHRTS GMBH ET AL. *v.* FIOCCA ET UX. C. A. 3d Cir. Certiorari denied. Reported below: 530 Fed. Appx. 183.

No. 13–475. SNYDER *v.* SMITH COLLEGE. C. A. 1st Cir. Certiorari denied.

No. 13–477. SOVERAIN SOFTWARE LLC *v.* NEWEGG INC. C. A. Fed. Cir. Certiorari denied. Reported below: 705 F. 3d 1333.

No. 13–488. MERRILL *v.* ALASKA BAR ASSN. Sup. Ct. Alaska. Certiorari denied. Reported below: 305 P. 3d 288.

No. 13–490. MAJORSKY ET UX. *v.* DOUGLAS ET AL. Super. Ct. Pa. Certiorari denied. Reported below: 58 A. 3d 1250.

No. 13–491. HOBBS *v.* JOHN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 722 F. 3d 1089.

No. 13–492. FRONE *v.* CITY OF RIVERDALE, GEORGIA, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 789.

No. 13–493. WEBER, FKA SALL *v.* SALL. Sup. Ct. N. D. Certiorari denied. Reported below: 2013 ND 108, 833 N. W. 2d 417.

No. 13–495. ZELLARS *v.* NEXTECH NORTHEAST, LLC. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 192.

No. 13–497. DONEGAN *v.* LIVINGSTON ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 195.

No. 13–500. R. L. *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 620 Pa. 217, 67 A. 3d 716.

No. 13–506. PERRY *v.* SOUTHERN WINE & SPIRITS ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 888.

No. 13–509. TRESCOTT *v.* FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION ET AL. C. A. D. C. Cir. Certiorari denied. Reported below: 724 F. 3d 243.

No. 13–511. SMITH *v.* PHILADELPHIA HOUSING AUTHORITY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 273.

No. 13–512. SAFARI *v.* COOPER WIRING DEVISES, INC. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 372.

No. 13–518. CABRERA *v.* NASSAU MEDICAL SERVICES, P. C. C. A. 2d Cir. Certiorari denied. Reported below: 526 Fed. Appx. 12.

No. 13–519. DEJESUS *v.* HF MANAGEMENT SERVICES, LLC. C. A. 2d Cir. Certiorari denied. Reported below: 726 F. 3d 85.

No. 13–522. LOTHIAN CASSIDY, LLC, ET AL. *v.* LOTHIAN EXPLORATION & DEVELOPMENT II, L. P., ET AL.; and GROSSMAN *v.* LOTHIAN OIL INC. ET AL. (Reported below: 526 Fed. Appx. 105). C. A. 2d Cir. Certiorari denied.

No. 13–523. ANTI LOTHIAN BANKRUPTCY FRAUD COMMITTEE ET AL. *v.* LOTHIAN OIL INC. ET AL. (two judgments). C. A. 5th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 352 (first judgment); 531 Fed. Appx. 428 (second judgment).

No. 13–526. BATHULA ET AL. *v.* HOLDER, ATTORNEY GENERAL. C. A. 7th Cir. Certiorari denied. Reported below: 723 F. 3d 889.

No. 13–527. WILLITS ET AL. *v.* PEABODY COAL CO., LLC, ET AL. Ct. App. Mo., Eastern Dist. Certiorari denied. Reported below: 400 S. W. 3d 432.

No. 13–529. STEVENS *v.* MEIER ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 737.

No. 13–530. BASSAN ET UX. *v.* FEDERAL LAND BANK ASSOCIATION OF HAWAII ET AL. Int. Ct. App. Haw. Certiorari denied.

No. 13–533. GORDON *v.* SOFTECH INTERNATIONAL, INC., ET AL.; and

No. 13–539. ARCANUM INVESTIGATIONS, INC., ET AL. *v.* GORDON. C. A. 2d Cir. Certiorari denied. Reported below: 726 F. 3d 42.

No. 13–541. BASILE *v.* CONNOLLY ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 538 Fed. Appx. 5.

No. 13–543. MOTLEY *v.* RAPELJE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–544. TUCKER ET AL. *v.* FEDERAL NATIONAL MORTGAGE ASSOCIATION. Ct. App. Colo. Certiorari denied.

No. 13–545. VERHAGEN ET AL. *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2013 WI App 16, 346 Wis. 2d 196, 827 N. W. 2d 891.

No. 13–546. GARDNER *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–548. SANCHEZ ET AL. *v.* MAYS, DIRECTOR, DEPARTMENT OF EXCISE AND LICENSES OF THE CITY AND COUNTY OF DENVER, COLORADO, ET AL. Ct. App. Colo. Certiorari denied.

No. 13–554. JONES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 321.

No. 13–559. LUKASHIN ET VIR *v.* ALLIANCEONE RECEIVABLES MANAGEMENT, INC. Sup. Ct. Wash. Certiorari denied.

No. 13–560. BURGIN, INDIVIDUALLY AND AS SURVIVING SPOUSE OF BURGIN, DECEASED, ET AL. *v.* LEACH, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS DEPUTY OF THE PAWNEE COUNTY SHERIFF'S DEPARTMENT, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 882.

No. 13–563. FRANCIS ET AL. *v.* ALLSTATE INSURANCE CO. C. A. 4th Cir. Certiorari denied. Reported below: 709 F. 3d 362.

No. 13–565. METSO MINERALS, INC. *v.* POWERSCREEN INTERNATIONAL DISTRIBUTION, LTD., NKA TEREX GB LTD., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 526 Fed. Appx. 988.

No. 13–570. SIMMSPARRIS *v.* STANDING COMMITTEE ON ATTORNEY DISCIPLINE. C. A. 3d Cir. Certiorari denied.

No. 13–574. CUMMINS, CONSERVATOR FOR C. A. P., A MINOR CHILD *v.* BIC USA, INC., ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 727 F. 3d 506.

No. 13–575. SCHIFF *v.* CITY AND COUNTY OF SAN FRANCISCO, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 743.

No. 13–582. HOLLY ET AL. *v.* THOMAS. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 208.

No. 13–588. SHOTT *v.* VEDDER PRICE, P. C. C. A. 7th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 562.

No. 13–589. DALTON *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 446.

No. 13–595. LE ET AL. *v.* DUC TAN ET AL. Sup. Ct. Wash. Certiorari denied. Reported below: 177 Wash. 2d 649, 300 P. 3d 356.

No. 13–596. PARENTEAU *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 532.

No. 13–598. BURKE *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 13–601. ZEI *v.* MARYLAND TRANSIT ADMINISTRATION. Ct. App. Md. Certiorari denied. Reported below: 433 Md. 254, 71 A. 3d 1.

No. 13–602. DAVIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 283.

No. 13–608. JOHNSTON *v.* UNITED STATES ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–609. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 406.

No. 13–611. DYARMAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 621 Pa. 88, 73 A. 3d 565.

No. 13–616. STEVENS ET AL. *v.* HAYES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 358.

No. 13–622. DULAL-WHITEWAY *v.* HOLDER, ATTORNEY GENERAL. C. A. 2d Cir. Certiorari denied.

No. 13–624. WAGLER ET AL. *v.* WEST BOGGS SEWER DISTRICT, INC. Ct. App. Ind. Certiorari denied. Reported below: 980 N. E. 2d 363.

No. 13–629. SORICH ET AL. *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 709 F. 3d 670.

No. 13–631. BOURNE *v.* NEW HAMPSHIRE ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–634. MONTANA SHOOTING SPORTS ASSN. ET AL. *v.* HOLDER, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 727 F. 3d 975.

No. 13–635. STROUD *v.* MCINTOSH ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 722 F. 3d 1294.

No. 13–643. WORSHAM *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 310.

No. 13–647. CLARK, INDIVIDUALLY AND AS EXECUTOR FOR THE ESTATE OF WATSON *v.* INTERNAL REVENUE SERVICE ET AL.

C. A. 9th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 824.

No. 13–649. Douglas *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 713 F. 3d 694.

No. 13–659. Cichon *v.* Lemke, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–660. Deters *v.* Kentucky Bar Assn. Sup. Ct. Ky. Certiorari denied. Reported below: 406 S. W. 3d 812.

No. 13–669. Thomas *v.* Thomas et al. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 181.

No. 13–673. Bush et al. *v.* United States. C. A. Fed. Cir. Certiorari denied. Reported below: 717 F. 3d 920.

No. 13–678. Field *v.* Berman et al. C. A. 4th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 287.

No. 13–696. Kwang Hee Kim *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 171.

No. 13–5152. Norman *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 504 Fed. Appx. 233.

No. 13–5604. Bullard *v.* Pennsylvania Bureau of Unemployment and Allowances. C. A. 3d Cir. Certiorari denied. Reported below: 516 Fed. Appx. 111.

No. 13–5825. Bess *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 13–5878. King *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 507 Fed. Appx. 853.

No. 13–5892. Collins *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 403.

No. 13–5958. Adams *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 716 F. 3d 1066.

No. 13–5983. Bracey *v.* Grondin et al. C. A. 7th Cir. Certiorari denied. Reported below: 712 F. 3d 1012.

No. 13–6244. Strelski *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 704.

No. 13–6382. Satele *v.* California; and

No. 13–6411. NUNEZ *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 57 Cal. 4th 1, 302 P. 3d 981.

No. 13–6385. MCCRAY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6391. ALEMAN *v.* DIAZ, WARDEN; and
No. 13–7210. MALDONADO *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 723 F. 3d 976.

No. 13–6398. MISSUD *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 809.

No. 13–6415. GOODLEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 452.

No. 13–6567. STUMPF *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 722 F. 3d 739.

No. 13–6595. OBADO *v.* UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY, BEHAVIORAL HEALTH CENTER, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 524 Fed. Appx. 812.

No. 13–6596. MOSBY, AKA MUHAYMIN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 719 F. 3d 925.

No. 13–6608. DIAZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 527.

No. 13–6628. MELSON *v.* THOMAS, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 713 F. 3d 1086.

No. 13–6656. ESPARZA *v.* ROBINSON, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–6776. BARGMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–6783. WHITE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 226.

No. 13–6840. MCCONNEL *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 743.

No. 13–6849. IOANE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 383.

No. 13–6869. MAGGESE *v.* STOIA ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 523.

No. 13–6871. LIGHTNER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–6872. LEWIS *v.* LOVE ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6873. O'BRIEN *v.* CALVO, GOVERNOR OF GUAM, ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–6882. SMITH *v.* KIRKLAND, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6886. SEALEY *v.* CHATMAN, WARDEN. Super. Ct. Butts County, Ga. Certiorari denied.

No. 13–6894. COLE *v.* FLORIDA. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 141 So. 3d 189.

No. 13–6913. ALEXANDER *v.* MICHIGAN ADJUTANT GENERAL ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–6917. JORDAN *v.* DAVIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–6919. WALKER *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 986 N. E. 2d 328.

No. 13–6920. WETZEL *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–0449 (La. 7/31/13), 118 So. 3d 1117.

No. 13–6922. JAMES *v.* BROWN, SUPERINTENDENT, WABASH VALLEY CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 13–6927. REED *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 13–6936. BREEDLOVE *v.* HINE ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–6940. VELASQUEZ *v.* MICHIGAN. Cir. Ct. Kalamazoo County, Mich. Certiorari denied.

No. 13–6945. Barnett *v.* Gansler, Attorney General of Maryland. C. A. 4th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 209.

No. 13–6952. Clark *v.* McLaughlin, Warden. C. A. 11th Cir. Certiorari denied.

No. 13–6954. Cowan *v.* Standifird, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 857.

No. 13–6955. Em *v.* Harrington, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–6957. Alexander *v.* Shearin, Warden, et al. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 336.

No. 13–6958. Garcia *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–6969. Holley *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 857.

No. 13–6975. Johnson *v.* Patterson et al. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 610.

No. 13–6976. Matthews *v.* Washington. Ct. App. Wash. Certiorari denied.

No. 13–6977. Harrell *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–6978. Harris et al. *v.* Los Angeles Department of Children and Family Services et al. C. A. 9th Cir. Certiorari denied.

No. 13–6981. Crosby *v.* Crews, Secretary, Florida Department of Corrections, et al. C. A. 11th Cir. Certiorari denied.

No. 13–6988. Porto *v.* City of Newport Beach, California, et al. C. A. 9th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 665.

No. 13–6991. Morales *v.* California. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 13–7000. WILLIAMS *v.* FLORIDA ET AL. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 121 So. 3d 1114.

No. 13–7002. WASHINGTON *v.* WOODS, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 766.

No. 13–7004. REED *v.* EDWARDS. C. A. 5th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 330.

No. 13–7012. BURTON *v.* KAKANI ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 577.

No. 13–7025. WILBORN *v.* COAKLEY, ATTORNEY GENERAL OF MASSACHUSETTS, ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–7027. THOMPSON *v.* FLORIDA ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7028. WITHERSPOON *v.* WHITE, CORRECTIONAL ADMINISTRATOR, MOUNTAIN VIEW CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 150.

No. 13–7031. JACKSON *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–7035. BATES *v.* MACLAREN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7036. ESCALANTE *v.* HOLDER, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied.

No. 13–7037. WELLS *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied.

No. 13–7044. MATHIS *v.* HEATH, SUPERINTENDENT, SING SING CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–7051. CROWLEY *v.* STATE BAR OF NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 1125.

No. 13–7054. HARRINGTON *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 170 Wash. App. 1025.

No. 13–7067. BROWN *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 356.

No. 13–7070. Rauch *v.* Denney, Warden. C. A. 8th Cir. Certiorari denied.

No. 13–7071. Snipes *v.* Tennessee. Ct. Crim. App. Tenn. Certiorari denied.

No. 13–7072. Shaw *v.* Hedgpeth, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–7073. Robinson *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–7074. Smith *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7077. Mitchell *v.* Kerestes, Superintendent, State Correctional Institution at Mahanoy. C. A. 3d Cir. Certiorari denied.

No. 13–7078. Morris *v.* Henson. C. A. 6th Cir. Certiorari denied.

No. 13–7079. Heredia *v.* Small, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 606.

No. 13–7080. Antonetti *v.* Neven, Warden, et al. C. A. 9th Cir. Certiorari denied.

No. 13–7083. Bates *v.* Warren, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–7091. Moats *v.* West Virginia Department of Transportation. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–7094. Studli *v.* Children and Youth Services et al. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 270.

No. 13–7096. Rogers *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7100. Mayfield *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7101. DAVIS *v.* HEYNS, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS. C. A. 6th Cir. Certiorari denied.

No. 13–7107. PASKAUSKIENE *v.* ALCOR PETROLAB, LLP. C. A. 5th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 329.

No. 13–7108. PARKER *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 118 So. 3d 234.

No. 13–7109. BITON *v.* GRIER ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–7110. CLARK *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–7112. WARNER *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 675.

No. 13–7114. LOCKETT *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 711 F. 3d 1218.

No. 13–7116. LOCKE *v.* TRITT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FRACKVILLE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7118. LEONARD *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 119 So. 3d 449.

No. 13–7119. JACKSON *v.* SAMPSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 356.

No. 13–7121. YOUNG *v.* FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7122. TODD *v.* BIGELOW, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 748.

No. 13–7124. TAYLOR *v.* GOOD, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 724 F. 3d 806.

No. 13–7125. CONLEY *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7128. ESTRADA *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–7129. BAKER *v.* KEITH, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–7138. MOTT *v.* MASSACHUSETTS. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 1132, 987 N. E. 2d 620.

No. 13–7149. STRICKENGLOSS *v.* STATE CORRECTIONAL INSTITUTION AT MERCER ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 193.

No. 13–7150. KIRSCHKE *v.* PRELESNIK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7152. KIRSCHKE *v.* PRELESNIK, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7155. SHAKIR *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 523.

No. 13–7157. REID *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied.

No. 13–7158. RANTEESI *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7160. SEIBERT *v.* HOOKS, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7161. SOSA *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–7164. SANCHEZ *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7167. NICKERSON, AKA WEBB *v.* UNITED STATES MARSHALS SERVICE. C. A. 5th Cir. Certiorari denied.

No. 13–7169. OBREAGON *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 13–7172. SWITZER *v.* WEAVER. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 208.

No. 13–7173. ESCOBAR *v.* CHRISMAN, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 839.

No. 13–7174. WHITTINGTON *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 64 A. 3d 9.

No. 13–7178. SWITZER *v.* THOMAS, SHERIFF, PAGE COUNTY, VIRGINIA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 312.

No. 13–7184. CORNISH *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7189. GARGES *v.* PEOPLE'S LIGHT & THEATRE CO. ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 156.

No. 13–7192. HERNANDEZ *v.* LUIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7195. CARRION *v.* FOULK, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7200. TORRES *v.* LONG, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 652.

No. 13–7202. YOUNG *v.* MONTGOMERY, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7205. REEVES *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–1884 (La. 9/13/13), 120 So. 3d 705.

No. 13–7206. COPELAND *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7207. EVANS *v.* SMITH, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–7208. CATHEY *v.* JONES, DIRECTOR, OKLAHOMA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 10th Cir. Certiorari denied.

No. 13–7209. BERGARA *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7215. DAVID L., A JUVENILE *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 13–7222. BRASCOM *v.* ARIZONA ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7224. ALFORD *v.* UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA. C. A. 3d Cir. Certiorari denied. Reported below: 538 Fed. Appx. 133.

No. 13–7225. DAVIS *v.* OHIO. Ct. App. Ohio, 5th App. Dist., Licking County. Certiorari denied. Reported below: 2012-Ohio-32.

No. 13–7226. CROWDER *v.* UNIVERSITY OF TEXAS MEDICAL BRANCH CORRECTIONAL MANAGED CARE (UTMB–CMC) ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–7227. NOBREGA *v.* WOODCOCK, CHIEF DISTRICT JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE, ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–7228. MOLLER *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 9th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 752.

No. 13–7230. MOSS *v.* BALLARD, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 191.

No. 13–7231. PEREZ *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–7234. BOYD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 234.

No. 13–7238. HENSON *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied. Reported below: 407 S. W. 3d 764.

No. 13–7239. GONZALEZ-AGUILERA *v.* FRANKE, SUPERINTENDENT, TWO RIVERS CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 13–7242. REIS, FKA KLEIN *v.* SPECTRUM HEALTH SYSTEMS, INC., ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–7243. STANBERRY *v.* THOMAS, COMMISSIONER, ALABAMA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7244. JARROW *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–7246. JOHNSON *v.* LESTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7249. LEWIS *v.* STEWARD, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7262. BROWN *v.* MATAUSZAK ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7265. ARMENDARIZ *v.* MONTGOMERY, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7268. SHEA *v.* DIRECTOR FOR PATENTS, UNITED STATES PATENT OFFICE. C. A. 9th Cir. Certiorari denied. Reported below: 508 Fed. Appx. 668.

No. 13–7271. DUNSMORE *v.* CALIFORNIA ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7272. CAKONI *v.* UNITED STATES; and
No. 13–7476. CELA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 534 Fed. Appx. 23.

No. 13–7274. MONTGOMERY *v.* GREEN, WARDEN. Sup. Ct. Mont. Certiorari denied. Reported below: 370 Mont. 554, 311 P. 3d 444.

No. 13–7275. BARNES *v.* TOOLE, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–7276. BONNER *v.* HOLLAND, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 759.

No. 13–7277. CATALAN *v.* HEDGPETH, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 780.

No. 13–7278. OLIVE *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 123 So. 3d 559.

No. 13–7280. GILLESPIE *v.* REVERSE MORTGAGE SOLUTIONS, INC., ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7282. BRIDGES *v.* BARNES, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 537.

No. 13–7287. PARKER *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–7288. MILLSAPS *v.* SMITH, ADMINISTRATOR, ALBEMARLE CORRECTIONAL INSTITUTION. C. A. 4th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 296.

No. 13–7290. THOMPSON *v.* DENNEY, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–7291. WOODARD *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 43 A. 3d 513.

No. 13–7292. CHESTANG *v.* CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7293. BESADA *v.* DEPARTMENT OF STATE, NATIONAL VISA CENTER. C. A. 9th Cir. Certiorari denied.

No. 13–7294. BROWN *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 101 App. Div. 3d 1267, 956 N. Y. S. 2d 618.

No. 13–7296. DAVIS *v.* BEAR ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 785.

No. 13–7297. DICKERSON *v.* EXPERIMENT IN SELF RELIANCE. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 214.

No. 13–7298. DELARM *v.* LIZARRAGA, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7302. MONTOYA *v.* OLSON ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–7305. AMARO *v.* LIVINGSTON, EXECUTIVE DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE. C. A. 5th Cir. Certiorari denied.

No. 13–7307. GALLEGOS *v.* ARIZONA. C. A. 9th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 626.

No. 13–7318. MENDEZ *v.* NEW JERSEY STATE LOTTERY COMMISSION ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 41.

No. 13–7323. OUTTEN *v.* HOWARD UNIVERSITY, DBA WHUR FM RADIO. Ct. App. D. C. Certiorari denied. Reported below: 62 A. 3d 1283.

No. 13–7324. DAVIS *v.* WILSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 145.

No. 13–7333. WILLIAMSON *v.* ALBANY MEDICAL CENTER. C. A. 2d Cir. Certiorari denied.

No. 13–7347. BELL *v.* WASHINGTON. Ct. App. Wash. Certiorari denied. Reported below: 172 Wash. App. 1018.

No. 13–7352. TASCIYAN *v.* MEDICAL NUMERICS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 257.

No. 13–7354. TAYLOR *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 188.

No. 13–7359. JOHNSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 119 So. 3d 443.

No. 13–7362. LANCE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 312.

No. 13–7364. DONNELL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 726 F. 3d 1054.

No. 13–7365. DUNN *v.* DREAMWORKS ANIMATION SKG, INC. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari denied.

No. 13–7368. SMITH *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 13–7371. BICKOM *v.* NEVEN, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7373. SHEPHERD *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7374. SIMMONS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7375. ROBINSON *v.* HINMAN. C. A. 7th Cir. Certiorari denied. Reported below: 500 Fed. Appx. 504.

No. 13–7376. ROBINS *v.* UNITED STATES. C. A. Armed Forces. Certiorari denied. Reported below: 72 M. J. 160.

No. 13–7377. SAUNDERS *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 60 A. 3d 162.

No. 13–7382. SHEPHARD *v.* UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA (two judgments). C. A. D. C. Cir. Certiorari denied.

No. 13–7384. Goodwin *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 719 F. 3d 857.

No. 13–7385. Gomez-Yanez *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 792.

No. 13–7388. Moore *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 723 F. 3d 919.

No. 13–7389. Poole *v.* Mackie, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–7390. Lafonta *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 507.

No. 13–7391. Watson-El *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 13–7392. Wiseman *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 324.

No. 13–7395. Lewis *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 321.

No. 13–7396. Montelongo *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 379.

No. 13–7401. Shivers *v.* Kerestes, Superintendent, State Correctional Institution at Mahanoy, et al. C. A. 3d Cir. Certiorari denied.

No. 13–7403. Thomas *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 384.

No. 13–7404. Hurth *v.* Campbell, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 696.

No. 13–7405. Harrison *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 510.

No. 13–7406. Hampton *v.* United States. C. A. 6th Cir. Certiorari denied. Reported below: 732 F. 3d 687.

No. 13–7407. Gonzalez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 438.

No. 13–7409. Graham Smith *v.* Meyer, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 774.

No. 13–7411. BAIRD *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 542 Fed. Appx. 149.

No. 13–7412. BELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 882.

No. 13–7414. ARREOLA-CASTILLO *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7416. CAMPBELL *v.* ARKANSAS DEPARTMENT OF CORRECTION ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 522.

No. 13–7417. EVANS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7420. ROLLIE *v.* FALK ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 755.

No. 13–7423. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 977.

No. 13–7424. MANOLATOS *v.* DUBE-GILLEY ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–7427. SANCHEZ-GUEVARA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7428. MOFFAT *v.* DEPARTMENT OF JUSTICE. C. A. 1st Cir. Certiorari denied. Reported below: 716 F. 3d 244.

No. 13–7431. SANCHEZ *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–7432. ASHRAF *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 197.

No. 13–7433. ALVARADO-CASAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 715 F. 3d 945.

No. 13–7437. WELLS *v.* COLUMBUS TECHNICAL COLLEGE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 510 Fed. Appx. 893.

No. 13–7438. THANNAVONG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 589.

No. 13–7443. ROLLERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 318.

No. 13–7444. OWENS *v.* COLORADO. Ct. App. Colo. Certiorari denied.

No. 13–7445. OGEONE *v.* YANG. Sup. Ct. Haw. Certiorari denied.

No. 13–7446. MARTINO *v.* MCCABE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 335.

No. 13–7449. DIAZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 790.

No. 13–7450. ROSARIO *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 662.

No. 13–7453. KALU *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 305.

No. 13–7454. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7455. OWENS *v.* TEXAS. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 13–7457. DASHER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 250.

No. 13–7459. DAVALOS-MARTINEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 773.

No. 13–7460. CLAYCOMB *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 703.

No. 13–7461. BAILON-RENTERIA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 411.

No. 13–7462. BROWN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 539 Fed. Appx. 57.

No. 13–7464. GAUGER *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 758.

No. 13–7465. MARTINEZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7470. LOPEZ HERNANDEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 871.

No. 13–7471. HOLLEY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 743.

No. 13–7473. GREEN *v.* VIRGINIA EMPLOYMENT COMMISSION. Sup. Ct. Va. Certiorari denied.

No. 13–7475. CLEVELAND *v.* PASTRANA, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–7477. CASTEEL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 717 F. 3d 635.

No. 13–7478. EDINGTON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 584.

No. 13–7480. FRAZIER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 308.

No. 13–7481. ROBINSON *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 123 So. 3d 559.

No. 13–7482. ROBINSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7483. HERNANDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7484. HOCKADAY *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 535 Fed. Appx. 102.

No. 13–7485. FLORES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 773.

No. 13–7492. GONZALEZ-RAMIREZ *v.* JOHNSON, SECRETARY OF HOMELAND SECURITY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 177.

No. 13–7493. ORR *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7494. PEREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 818.

No. 13–7496. GRIFFIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 696 F. 3d 1354.

No. 13–7498. JACKSON *v.* HARTFORD LIFE & ACCIDENT INSURANCE CO. C. A. 11th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 977.

No. 13–7499. MARTIN BENAVIDEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 829.

No. 13–7501. BUNKLEY *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 13–7502. ROBERTS ET AL. *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 387.

No. 13–7503. FRAZIER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7505. GAY *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 560.

No. 13–7511. SANCHEZ *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 13–7514. ROEMMELE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 891.

No. 13–7515. BURGOS-VALENCIA *v.* MAIORANA, WARDEN, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7518. NEUNER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 373.

No. 13–7522. CARLSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 743.

No. 13–7523. PRADO CASTANEDA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 790.

No. 13–7524. STAMPER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 408.

No. 13–7525. MASELLO *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 13–7526. PEIXOTO *v.* MASSACHUSETTS. Sup. Jud. Ct. Mass. Certiorari denied.

No. 13–7527. MITCHELL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 972.

No. 13–7528. NELSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 915.

No. 13–7531. FERRER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–7536. BURKE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 256.

No. 13–7537. DOROTEO AYALA *v.* YOUNG, SECRETARY, NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 303.

No. 13–7538. THREADGILL *v.* NORTH CAROLINA. Ct. App. N. C. Certiorari denied. Reported below: 227 N. C. App. 175, 741 S. E. 2d 677.

No. 13–7539. TAYLOR *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 111.

No. 13–7540. WELDON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 301.

No. 13–7541. YOUNG *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 984.

No. 13–7542. TERRY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 523 Fed. Appx. 685.

No. 13–7545. CURBELO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 726 F. 3d 1260.

No. 13–7546. CORONADO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 576.

No. 13–7547. CARVAJAL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 803.

No. 13–7548. DENTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 832.

No. 13–7549. CHARLESTAIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 870.

No. 13–7551. CROSS *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied. Reported below: 766 F. 3d 1.

No. 13–7552. RAMIREZ-RAMIREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 638.

No. 13–7554. SHMUCKLER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 287.

No. 13–7555. STOKES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7559. MARCUS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 840.

No. 13–7560. JONES *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 728 F. 3d 763.

No. 13–7564. JONES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 451.

No. 13–7565. BONCZEK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7575. CARMAGO-ANTONIO, AKA LORENZO-CAMARGO *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 678.

No. 13–7578. COPPEDGE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 288.

No. 13–7579. ANIN *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 544 Fed. Appx. 59.

No. 13–7585. WALKER *v.* PIERCE, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7586. WILSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 75 A. 3d 296.

No. 13–7587. WILSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7590. ORDONEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7591. PARGAS-GONZALES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 781.

No. 13–7592. RAMEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 210.

No. 13–7594. BUSH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 727 F. 3d 1308.

No. 13–7595. BUGG *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7597. ORTEGA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 335.

No. 13–7601. PONIS *v.* HARTLEY, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 801.

No. 13–7604. KISSEL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7605. MARCELINO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 217.

No. 13–7606. ROBBINS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 729 F. 3d 131.

No. 13–7607. RESIO-ARAGON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 658.

No. 13–7608. BRADDY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 183.

No. 13–7611. FULLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7612. ANGEL ORDAZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 720 F. 3d 1245.

No. 13–7613. MERCER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7615. GARCIA *v.* NEW MEXICO. Ct. App. N. M. Certiorari denied. Reported below: 2013–NMCA–005, 294 P. 3d 1256.

No. 13–7616. HARRIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 858.

No. 13–7617. FULTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 853.

No. 13–7620. UGWU *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 539 Fed. Appx. 35.

No. 13–7625. MCCULLIGAN *v.* MAZURKIEWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENSBURG, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7626. MIR *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 539 Fed. Appx. 35.

No. 13–7628. SUNG KUN KIM *v.* HAGEL, SECRETARY OF DEFENSE. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 268.

No. 13–7635. ENRIQUE FUNEZ *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 217.

No. 13–7637. GREEN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 70 A. 3d 260.

No. 13–7638. GUTIERREZ *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7643. ISASI *v.* FEDERAL BUREAU OF INVESTIGATION. C. A. 2d Cir. Certiorari denied.

No. 13–7644. GRICE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7645. HANNA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 367.

No. 13–7647. ROBINSON *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 70 A. 3d 259.

No. 13–7653. DUYZINGS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7654. DUMAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 309.

No. 13–7655. CAMACHO TORRES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7657. MOORE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 648.

No. 13–7658. MIMS *v.* UNITED STATES;
No. 13–7661. THOMAS *v.* UNITED STATES;
No. 13–7673. CARTER *v.* UNITED STATES;
No. 13–7674. DANIELS *v.* UNITED STATES;
No. 13–7684. FURLOW *v.* UNITED STATES; and
No. 13–7695. CARTER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 723 F. 3d 562.

No. 13–7659. NIETO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 721 F. 3d 357.

No. 13–7662. BURRELL *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 290.

No. 13–7663. LUCAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 826.

No. 13–7670. JONES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7671. KNIGHT *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–7675. LESPIER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 725 F. 3d 437.

No. 13–7678. LOCKE *v.* BAENEN, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–7679. KAMERLING *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7680. COURVELLE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 511.

No. 13–7682. CHASE *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 717 F. 3d 651.

No. 13–7685. BERRY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7688. RITTER *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 811.

No. 13–7690. ARMSTRONG *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7692. LEE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 723 F. 3d 134.

No. 13–7693. JONES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 940.

No. 13–7694. CAMPBELL *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–7696. NASH *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 729 F. 3d 400.

No. 13–7697. NICKLES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 736.

No. 13–7699. ALLEN *v.* STEWART, WARDEN. C. A. 6th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 435.

No. 13–7700. BURGESS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7701. BOSTON *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 98.

No. 13–7703. CRUZ-CASTILLO, AKA CURZ-CASTILLO *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 537 Fed. Appx. 7.

No. 13–7714. HOOD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 982.

No. 13–7733. LELINSKI *v.* SMITH, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–7746. MANUEL BAHENA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 297.

No. 13–7747. EADS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 729 F. 3d 769.

No. 13–7748. MERCADO *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 260.

No. 13–7752. PARKER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 228.

No. 13–7754. STEVENS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 192.

No. 13–7757. Cooper *v.* Jarvis, Warden. C. A. 11th Cir. Certiorari denied.

No. 13–7761. Villanueva-Jimenez *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 436.

No. 13–7762. Talbert *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 496.

No. 13–7765. Twymon *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 501.

No. 13–7770. Ten Choup *v.* United States. C. A. 3d Cir. Certiorari denied.

No. 13–7771. Black *v.* United States. C. A. 6th Cir. Certiorari denied.

No. 12–1078. Samantar *v.* Yousuf et al. C. A. 4th Cir. Certiorari denied. Justice Kagan took no part in the consideration or decision of this petition. Reported below: 699 F. 3d 763.

No. 13–186. Cotterman *v.* United States. C. A. 9th Cir. Certiorari denied. Justice Kagan took no part in the consideration or decision of this petition. Reported below: 709 F. 3d 952.

No. 13–351. Bingham McCutchen, LLP, et al. *v.* Harris. Ct. App. Cal., 2d App. Dist., Div. 5. Motion of New England Legal Foundation for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 214 Cal. App. 4th 1399, 154 Cal. Rptr. 3d 843.

No. 13–394. McDaniels *v.* Mobil Oil Corp. C. A. 9th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 527 Fed. Appx. 615.

No. 13–412. Chubb Custom Insurance Co. *v.* Space Systems/Loral, LLC, et al. C. A. 9th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 710 F. 3d 946.

No. 13–419. Clayton *v.* ConocoPhillips Co. et al. C. A. 5th Cir. Certiorari denied. Justice Alito took no part in the consideration or decision of this petition. Reported below: 722 F. 3d 279.

No. 13–532. OWNER-OPERATOR INDEPENDENT DRIVERS ASSN. INC. *v.* DEPARTMENT OF TRANSPORTATION ET AL. C. A. D. C. Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 724 F. 3d 206.

No. 13–592. STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION *v.* GONGORA. C. A. 5th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 710 F. 3d 267.

No. 13–610. DADE *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7011. ARIZMENDI *v.* STATE BAR OF CALIFORNIA. Sup. Ct. Cal. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 13–7194. DUNIGAN *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, ET AL. C. A. 9th Cir. Certiorari before judgment denied.

No. 13–7229. PENNINGTON-THURMAN *v.* AT&T INC. ET AL. C. A. 8th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 511 Fed. Appx. 599.

No. 13–7387. PETERSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 523 Fed. Appx. 233.

No. 13–7516. ELLIS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 538 Fed. Appx. 361.

No. 13–7530. GARRISON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7568. LESANE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 541 Fed. Appx. 332.

No. 13–7569. PITCHER *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7627. KISSI *v.* UNITED STATES (two judgments). C. A. 4th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 543 Fed. Appx. 293 (first judgment); 555 Fed. Appx. 223 (second judgment).

No. 13–7646. SCHMITZ *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. 12–1491. SMITH ET AL. *v.* WILSON ET AL., *ante*, p. 829;

No. 12–7788. JULES *v.* UNITED STATES, 568 U. S. 1173;

No. 12–8963. PATTERSON *v.* GODWARD ET AL., *ante*, p. 830;

No. 12–9935. GUMISIRIZA *v.* BUSBY, WARDEN, *ante*, p. 834;

No. 12–10024. GRAVES *v.* VIRGINIA DEPARTMENT OF CORRECTIONS, *ante*, p. 836

No. 12–10298. L. G. *v.* DEPARTMENT OF PUBLIC WELFARE, *ante*, p. 844;

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No. 13–6399. VANDO *v.* PENNSYLVANIA, *ante*, p. 998;
No. 13–6409. MCFADDEN *v.* JEPERTINGER, *ante*, p. 1075;
No. 13–6429. CHRISTMAS *v.* HUNTINGTON INGALLS, INC., *ante*, p. 998;
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No. 13–6481. FLETCHER *v.* MYERS ET AL., *ante*, p. 998;
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No. 13–6672. THOMAS *v.* CALIFORNIA, *ante*, p. 1030;
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No. 13–6885. IN RE BITON, *ante*, p. 1023;
No. 13–6941. VALDEZ *v.* UNITED STATES, *ante*, p. 1034;
No. 13–7001. WIAND *v.* UNITED STATES, *ante*, p. 1035;
No. 13–7014. IN RE JONES, *ante*, p. 1009; and
No. 13–7098. IN RE STRONG, *ante*, p. 1023. Petitions for rehearing denied.

No. 13–5268. GRIFFIN *v.* UNITED STATES, *ante*, p. 945; and
No. 13–7005. QUINTERO-CALLE *v.* UNITED STATES, *ante*, p. 1060. Petitions for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of these petitions.

No. 13–5324. AGUIAR *v.* UNITED STATES, *ante*, p. 945. Petition for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–5902. ATHERTON *v.* DISTRICT OF COLUMBIA OFFICE OF THE MAYOR ET AL., *ante*, p. 984. Petition for rehearing denied. THE CHIEF JUSTICE and JUSTICE KAGAN took no part in the consideration or decision of this petition.

JANUARY 15, 2014

Certiorari Denied

No. 13–8165 (13A720). MCGUIRE *v.* ROBINSON, 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: 738 F. 3d 741.

JANUARY 17, 2014

Certiorari Granted

No. 13–483. LANE *v.* FRANKS ET AL. C. A. 11th Cir. Certiorari granted. Reported below: 523 Fed. Appx. 709.

No. 13–132. RILEY *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari granted limited to the following question: "Whether evidence admitted at petitioner's trial was obtained in a search of petitioner's cell phone that violated petitioner's Fourth Amendment rights."

No. 13–212. UNITED STATES *v.* WURIE. C. A. 1st Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari granted. Reported below: 728 F. 3d 1.

JANUARY 21, 2014

Affirmed on Appeal

No. 13–456. KOSTICK ET AL. *v.* NAGO, CHIEF ELECTION OFFICER, STATE OF HAWAII, ET AL. Affirmed on appeal from D. C. Haw. Reported below: 960 F. Supp. 2d 1074.

Certiorari Dismissed

No. 13–7356. MARTINEZ *v.* MARTINEZ 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: 517 Fed. Appx. 634.

Miscellaneous Orders

No. D–2734. IN RE DISBARMENT OF ANDRESEN. Disbarment entered. [For earlier order herein, see *ante*, p. 987.]

No. D–2735. IN RE DISBARMENT OF LYNN. Disbarment entered. [For earlier order herein, see *ante*, p. 987.]

No. D–2736. IN RE DISBARMENT OF ROSE. Disbarment entered. [For earlier order herein, see *ante*, p. 987.]

No. D–2737. IN RE DISBARMENT OF LIPPMAN. Disbarment entered. [For earlier order herein, see *ante*, p. 987.]

No. D–2738. IN RE BERG. Philip J. Berg, of Lafayette Hill, Pa., having requested to resign as a member of the Bar of this Court, it is ordered that his name be stricken from the roll of attorneys admitted to the practice of law before this Court. The rule to show cause, issued on November 4, 2013 [*ante*, p. 987], is discharged.

No. D–2739. IN RE DISBARMENT OF CARTER. Disbarment entered. [For earlier order herein, see *ante*, p. 987]

No. D–2740. IN RE DISBARMENT OF ZOUZOULAS. Disbarment entered. [For earlier order herein, see *ante*, p. 988.]

No. D–2741. IN RE DISBARMENT OF MARTIN. Disbarment entered. [For earlier order herein, see *ante*, p. 988.]

No. D–2742. IN RE DISBARMENT OF MAKOWSKI. Disbarment entered. [For earlier order herein, see *ante*, p. 988.]

No. 13–7163. SPATARO *v.* UNITED STATES. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1070] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 13–7386. OSHODE *v.* PENNSYLVANIA. Super. Ct. Pa.;

No. 13–7397. CAHILL *v.* CAHILL. Sup. Ct. Va.; and

No. 13–7398. CLIFFORD *v.* ROCKLAND COUNTY, NEW YORK. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until February 11, 2014, 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. 13–8015. IN RE QUINERLY. Petition for writ of habeas corpus denied.

No. 13–7719. IN RE KOST. Petition for writ of mandamus denied.

No. 13–7344. IN RE PARKER. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 12–911. AU OPTRONICS CORP. ET AL. *v.* SOUTH CAROLINA. C. A. 4th Cir. Certiorari denied. Reported below: 699 F. 3d 385.

No. 12–10591. FUGIT *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 703 F. 3d 248.

No. 13–323. PEREZ-GUERRERO *v.* HOLDER, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 717 F. 3d 1224.

No. 13–452. CSX TRANSPORTATION, INC. *v.* ABB INC. C. A. 4th Cir. Certiorari denied. Reported below: 721 F. 3d 135.

No. 13–467. TRANSOCEAN DEEPWATER, INC. *v.* BOUDREAUX. C. A. 5th Cir. Certiorari denied. Reported below: 721 F. 3d 723.

No. 13–469. SOUTHERN COMMUNICATIONS SERVICES, INC., DBA SOUTHERNLINC WIRELESS *v.* THOMAS, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. C. A. 11th Cir. Certiorari denied. Reported below: 720 F. 3d 1352.

No. 13–513. RURAL WATER DISTRICT NO. 4, DOUGLAS COUNTY, KANSAS *v.* CITY OF EUDORA, KANSAS. C. A. 10th Cir. Certiorari denied. Reported below: 720 F. 3d 1269.

No. 13–580. TANGUY ET AL. *v.* WEST, TRUSTEE. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 440.

No. 13–586. ATWELL, EXECUTOR OF THE ESTATE OF ATWELL, DECEASED *v.* JOHN CRANE, INC. Super. Ct. Pa. Certiorari denied. Reported below: 63 A. 3d 841.

No. 13–590. Lara K. *v.* Dwight K. et al. Ct. App. Ariz. Certiorari denied.

No. 13–594. Noshafagh *v.* Leggett, County Executive, Montgomery County, Maryland, et al. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 251.

No. 13–615. Tupper *v.* Gladden. Ct. App. Wash. Certiorari denied.

No. 13–653. Anderson *v.* Discovery Communications, LLC, et al. C. A. 4th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 190.

No. 13–656. Jaegel et ux. *v.* Skagit County, Washington. Ct. App. Wash. Certiorari denied. Reported below: 174 Wash. App. 1010.

No. 13–716. SAP America, Inc., et al. *v.* Versata Software, Inc., fka Trilogy Software, Inc., et al. C. A. Fed. Cir. Certiorari denied. Reported below: 717 F. 3d 1255.

No. 13–5508. Winger *v.* Pierce et al. C. A. 7th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 569.

No. 13–6246. Batiste *v.* Texas. Ct. Crim. App. Tex. Certiorari denied.

No. 13–6518. Missud *v.* Superior Court of California, San Francisco County, et al. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 745.

No. 13–6542. Snyder *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 220.

No. 13–6586. Harrison *v.* Virginia. Sup. Ct. Va. Certiorari denied.

No. 13–6950. Stanley *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 325.

No. 13–7136. Rhines *v.* Weber, Warden. Sup. Ct. S. D. Certiorari denied.

No. 13–7312. Warren *v.* Cain, Warden. C. A. 5th Cir. Certiorari denied.

No. 13–7313. Saesee *v.* McDonald, Warden. C. A. 9th Cir. Certiorari denied. Reported below: 725 F. 3d 1045.

No. 13–7314. Ross *v.* Seabolt, Warden. C. A. 11th Cir. Certiorari denied.

No. 13–7315. Rhodes *v.* City of Phoenix, Arizona, et al. C. A. 9th Cir. Certiorari denied.

No. 13–7317. Russell *v.* Cooper, Warden. C. A. 5th Cir. Certiorari denied.

No. 13–7331. Zavala *v.* Wofford, Acting Warden. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 684.

No. 13–7336. Melendez *v.* Phelps, Warden, et al. C. A. 3d Cir. Certiorari denied.

No. 13–7339. Maxberry *v.* Sallie Mae Education Loans. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 73.

No. 13–7345. Scheib *v.* Keystone Residential Properties, LLC, et al. Super. Ct. Pa. Certiorari denied. Reported below: 62 A. 3d 449.

No. 13–7350. Pate *v.* Fletcher et al. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7358. Kelly *v.* Swarthout, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–7360. Carrea *v.* Beard, Secretary, California Department of Corrections and Rehabilitation, et al. C. A. 9th Cir. Certiorari denied.

No. 13–7361. Kidd *v.* Mississippi. Sup. Ct. Miss. Certiorari denied.

No. 13–7366. Elder *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7369. Wright *v.* Pixley, Warden. C. A. 4th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 200.

No. 13–7370. MARTIN TRINIDAD *v.* CALIFORNIA. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 13–7378. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA; and
No. 13–7379. DAKER *v.* WARREN, SHERIFF, COBB COUNTY, GEORGIA. C. A. 11th Cir. Certiorari denied.

No. 13–7380. SEALS *v.* MITCHELL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 566.

No. 13–7381. BRINKLEY *v.* GEORGIA. Ct. App. Ga. Certiorari denied. Reported below: 320 Ga. App. 275, 739 S. E. 2d 703.

No. 13–7383. ADENIJI *v.* FLORIDA STATE COLLEGE. C. A. 11th Cir. Certiorari denied.

No. 13–7393. YOUNG *v.* ORWICK ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–7400. LEI KE *v.* DREXEL UNIVERSITY ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 531 Fed. Appx. 187.

No. 13–7402. DESUE *v.* KINSAUL. Sup. Ct. Fla. Certiorari denied. Reported below: 129 So. 3d 1067.

No. 13–7408. HARRIS *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–7410. RADBOD *v.* ARIAS ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 235.

No. 13–7415. BLACKWELL *v.* COLEY ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–7421. LANCE *v.* MCLEAN, JUDGE, FOURTH JUDICIAL DISTRICT COURT OF MONTANA. Sup. Ct. Mont. Certiorari denied. Reported below: 370 Mont. 556, 311 P. 3d 445.

No. 13–7422. JEAN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7430. MOORE *v.* LITTLE ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7436. TAYLOR *v.* FLORIDA ET AL. Sup. Ct. Fla. Certiorari denied. Reported below: 120 So. 3d 540.

No. 13–7487. HAUGEN *v.* KITZHABER, GOVERNOR OF OREGON. Sup. Ct. Ore. Certiorari denied. Reported below: 353 Ore. 715, 306 P. 3d 592.

No. 13–7508. HALEY *v.* SAUERS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7562. BALOGH *v.* PERSSON, SUPERINTENDENT, OREGON STATE CORRECTIONAL INSTITUTION. C. A. 9th Cir. Certiorari denied.

No. 13–7602. KELLY *v.* OMAHA HOUSING AUTHORITY ET AL. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 560.

No. 13–7660. MULLINS *v.* ROZUM, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7711. VAN COX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7713. MARTINEZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–7718. VALDES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 860.

No. 13–7724. ALONZO-LLANAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 531.

No. 13–7725. BERMUDEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 869.

No. 13–7727. WEN CHYU LIU *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 159.

No. 13–7732. KEYS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 512.

No. 13–7740. COBB *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–7743. DONOVAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 648.

No. 13–7745. BROWN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7772. COSTELON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 586.

No. 13–7774. PITTS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7777. CARLOS RODRIGUEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 840.

No. 13–7780. GONZALEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 736 F. 3d 40.

No. 13–7783. FLORES-DURAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 348.

No. 13–7784. MATHEWS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 418.

No. 13–7785. MARTINEZ *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7790. BASSETT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 640.

No. 13–7799. HENDRICKS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7802. JACKSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7803. KEETER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 435 Fed. Appx. 270.

No. 13–7804. KOZOHORSKY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 708 F. 3d 1028.

No. 13–7808. CONAWAY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 898.

No. 13–7811. HOLLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 192.

No. 13–7814. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 815.

No. 13–7817. ENGLAND *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7818. HARMON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 721 F. 3d 877.

No. 13–7819. GREEN *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 70 A. 3d 258.

No. 13–7820. GONZALEZ-GONZALEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–7821. HUDDLESTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7822. KAREEM *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7823. MATHIAS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 952.

No. 13–7824. LEE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 895.

No. 13–7829. ALVAREZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 551.

No. 13–7830. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 898.

No. 13–7832. MURDOCK *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 542 Fed. Appx. 57.

No. 13–7835. WHITE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 977.

No. 13–7836. SUAREZ-GARCIA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 832.

No. 13–7843. CAVENDER *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 514.

No. 13–7846. BURNS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 916.

No. 13–7847. ABRAMS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 990.

No. 13–7849. BARNES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 194.

No. 13–7851. RUBI-VALLECILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 367.

No. 13–7852. SANCHEZ-TORRES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 353.

No. 13–7860. BARTLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 166.

No. 13–7868. ABDUR-RAHMAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 708 F. 3d 98 and 512 Fed. Appx. 1.

No. 13–52. KANSAS *v.* SWINDLER. Sup. Ct. Kan. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 296 Kan. 670, 294 P. 3d 308.

No. 13–478. ADAMS, WARDEN *v.* CANNEDY. C. A. 9th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 706 F. 3d 1148.

No. 13–481. ROWLAND ET AL. *v.* STATE EMPLOYEES BARGAINING AGENT COALITION ET AL. C. A. 2d Cir. Motion of Yankee Institute for Public Policy for leave to file brief as *amicus curiae* granted. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this motion and this petition. Reported below: 718 F. 3d 126.

Rehearing Denied

No. 12–10556. FLORES *v.* TEXAS (two judgments), *ante*, p. 855;
No. 12–10601. COLEMAN *v.* LEWIS, WARDEN, *ante*, p. 857;
No. 13–5525. GUERRERO GALINDO *v.* UNITED STATES, *ante*, p. 920;
No. 13–5852. HUGHES *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL., *ante*, p. 976;
No. 13–6238. IN RE CLAY, *ante*, p. 1010;
No. 13–6320. SIROIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 1027;
No. 13–6491. IN RE CULVERHOUSE, *ante*, p. 1070;
No. 13–6640. IN RE GINGLEN, *ante*, p. 972;
No. 13–6680. WILSON *v.* OFFICE OF THE ATTORNEY GENERAL, *ante*, p. 1079;
No. 13–6723. WILLIAMS *v.* PUBLISH AMERICA, *ante*, p. 1098;

No. 13–6912. DEAN *v.* UNITED STATES, *ante*, p. 1034; and No. 13–7019. OCHOA *v.* RUBIN, AKA RUBIN OCHOA, *ante*, p. 1101. Petitions for rehearing denied.

JANUARY 22, 2014

Certiorari Denied

No. 13–8353 (13A765). TAMAYO *v.* STEPHENS, 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: 740 F. 3d 991.

No. 13–8358 (13A762). TAMAYO *v.* STEPHENS, 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. JUSTICE GINSBURG, JUSTICE BREYER, and JUSTICE SOTOMAYOR would grant the application for stay of execution. Reported below: 740 F. 3d 986.

JANUARY 24, 2014

Miscellaneous Order

No. 13A691. LITTLE SISTERS OF THE POOR HOME FOR THE AGED, DENVER, COLORADO, A COLORADO NONPROFIT CORPORATION, ET AL. *v.* SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL. D. C. Colo. Application for an injunction having been submitted to JUSTICE SOTOMAYOR, and by her referred to the Court, the Court orders: If the employer applicants inform the Secretary of Health and Human Services in writing that they are nonprofit organizations that hold themselves out as religious and have religious objections to providing coverage for contraceptive services, respondents are enjoined from enforcing against applicants the challenged provisions of the Patient Protection and Affordable Care Act and related regulations pending final disposition of the appeal by the United States Court of Appeals for the Tenth Circuit. To meet the condition for injunction pending appeal, applicants need not use the form prescribed by the Government and need not send copies to third-party administrators.

The Court issues this order based on all of the circumstances of the case, and this order should not be construed as an expression of the Court's views on the merits.

JANUARY 27, 2014

Certiorari Granted—Vacated and Remanded

No. 13–6435. PERSAUD *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 the position asserted by the Solicitor General in his brief for the United States filed on December 20, 2013. Reported below: 517 Fed. Appx. 137.

Certiorari Dismissed

No. 13–7472. HANN *v.* HEYNS, DIRECTOR, MICHIGAN DEPARTMENT OF CORRECTIONS. 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. 13–7571. JOHNSON *v.* HOLDER, ATTORNEY GENERAL, 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. Reported below: 536 Fed. Appx. 177.

No. 13–7839. TOWNSEND *v.* MINNESOTA. Sup. Ct. Minn. 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: 834 N. W. 2d 736.

Miscellaneous Orders

No. D–2733. IN RE DISBARMENT OF LISONI. Disbarment entered. [For earlier order herein, see *ante*, p. 987.]

No. D–2749. IN RE DISBARMENT OF SARGENT. Disbarment entered. [For earlier order herein, see *ante*, p. 1068.]

No. 13M71. BUCZEK *v.* MAIORANA;

No. 13M72. DAVIS *v.* UNITED STATES; and

No. 13M73. VENCILL *v.* BASKERVILLE, WARDEN. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 141, Orig. TEXAS *v.* NEW MEXICO ET AL. Motion for leave to file bill of complaint granted. Motion of plaintiff for leave to file supplemental brief granted. New Mexico is allowed 60 days within which to file a motion to dismiss, in the nature of a motion under Fed. Rule Civ. Proc. 12(b)(6). Plaintiff is allowed 45 days to file a response to the motion. A reply, if any, shall be filed within 15 days after the response is filed. [For earlier order herein, see 569 U. S. 916.]

No. 12–1146. UTILITY AIR REGULATORY GROUP *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1248. AMERICAN CHEMISTRY COUNCIL ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1254. ENERGY-INTENSIVE MANUFACTURERS WORKING GROUP ON GREENHOUSE GAS REGULATION ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1268. SOUTHEASTERN LEGAL FOUNDATION, INC., ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.;

No. 12–1269. TEXAS ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL.; and

No. 12–1272. CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA ET AL. *v.* ENVIRONMENTAL PROTECTION AGENCY ET AL. C. A. D. C. Cir. [Certiorari granted, *ante*, p. 951.] Motion of petitioners for divided argument granted, and the time is divided as follows: 30 minutes for private-party petitioners, 15 minutes for state petitioners, and 45 minutes for respondents.

No. 12–1163. HIGHMARK INC. *v.* ALLCARE HEALTH MANAGEMENT SYSTEM, INC. C. A. Fed. Cir. [Certiorari granted, 570 U. S. 947.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–1184. OCTANE FITNESS, LLC *v.* ICON HEALTH & FITNESS, INC. C. A. Fed. Cir. [Certiorari granted, 570 U. S. 948.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 13–553. ALABAMA DEPARTMENT OF REVENUE ET AL. *v.* CSX TRANSPORTATION, INC. C. A. 11th Cir. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 13–6788. DILTS ET VIR *v.* COLD SPRING FOREST SECTION 1 HOMEOWNERS ASSN., INC., ET AL. Sup. Ct. App. W. Va. Motion of petitioners for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1093] denied.

No. 13–7088. ERWIN *v.* UNITED STATES ET AL. C. A. 5th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1068] denied.

No. 13–790. IN RE BORELLI; and
No. 13–8136. IN RE WOODWORTH. Petitions for writs of habeas corpus denied.

No. 13–7908. IN RE PUZEY. Petition for writ of mandamus denied.

No. 13–7738. IN RE SETTLE. 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.

No. 13–614. IN RE MCDONALD. Petition for writ of mandamus and/or prohibition denied.

Certiorari Denied

No. 12–1116. MIROWSKI FAMILY VENTURES, LLC *v.* MEDTRONIC, INC., ET AL. C. A. Fed. Cir. Certiorari denied. Reported below: 695 F. 3d 1266.

No. 13–451. MICHIGAN *v.* HARRISON. C. A. 6th Cir. Certiorari denied. Reported below: 722 F. 3d 768.

No. 13–501. ENGLESON *v.* UNUM LIFE INSURANCE COMPANY OF AMERICA ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 723 F. 3d 611.

No. 13–514. HOAGLAND *v.* ADA COUNTY, IDAHO, ET AL. Sup. Ct. Idaho. Certiorari denied. Reported below: 154 Idaho 900, 303 P. 3d 587.

No. 13–568. BANKERT, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF BANKERT, ET AL. *v.* BERNSTEIN ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 733 F. 3d 190.

No. 13–569. EDELMAN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 726 F. 3d 305.

No. 13–605. ASAP COPY AND PRINT ET AL. *v.* CANON BUSINESS SOLUTIONS, INC., ET AL.; RINGGOLD-LOCKHART ET AL. *v.* SANKARY; EVANS *v.* CARTER ET AL.; and TURNER ET AL. *v.* SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, ET AL. Ct. App. Cal., 2d App. Dist., Div. 2. Certiorari denied.

No. 13–612. HARDY *v.* FEDERAL NATIONAL MORTGAGE ASSOCIATION ET AL. Sup. Ct. Va. Certiorari denied.

No. 13–613. GHOSH *v.* CITY OF BERKELEY, CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 13–617. SHECHET *v.* DOAR ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 26.

No. 13–619. SPEHAR CAPITAL, LLC, ET AL. *v.* MAYER BROWN ROWE & MAW, LLP, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 719 F. 3d 785.

No. 13–623. CLAYTON *v.* CITIMORTGAGE, INC. Super. Ct. Pa. Certiorari denied. Reported below: 64 A. 3d 17.

No. 13–626. SWANSON *v.* BAKER & MCKENZIE, LLP, ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 572.

No. 13–627. CAPRA ET AL. *v.* COOK COUNTY BOARD OF REVIEW ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 733 F. 3d 705.

No. 13–630. RICHARDS *v.* HOLSUM BAKERY, INC., ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 738.

No. 13–636. FINR II, INC. *v.* CF INDUSTRIES, INC., ET AL. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 118 So. 3d 809.

No. 13–642. ANUFORO *v.* HOLDER, ATTORNEY GENERAL. C. A. 11th Cir. Certiorari denied. Reported below: 494 Fed. Appx. 970.

No. 13–657. MCLANE SOUTHERN, INC. *v.* BRIDGES, SECRETARY, LOUISIANA DEPARTMENT OF REVENUE. Ct. App. La., 1st Cir. Certiorari denied. Reported below: 2010–1259 (La. App. 1 Cir. 3/21/13), 110 So. 3d 1262.

No. 13–661. BUNCK ET AL. *v.* KING ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 905.

No. 13–663. AMERIJET INTERNATIONAL, INC. *v.* NATIONAL LABOR RELATIONS BOARD ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 795.

No. 13–664. PRICE *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–668. HIGH PLAINS CATTLE CO., LLC *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 728 F. 3d 1190.

No. 13–670. DEMPSEY *v.* INDIANA SUPREME COURT DISCIPLINARY COMMISSION. Sup. Ct. Ind. Certiorari denied. Reported below: 986 N. E. 2d 816.

No. 13–681. VAN HORN *v.* KEEFER ET AL. Sup. Ct. Tex. Certiorari denied.

No. 13–688. JONAS *v.* JONAS. Sup. Ct. Mont. Certiorari denied. Reported below: 371 Mont. 113, 308 P. 3d 33.

No. 13–702. KOZIOL *v.* COMMITTEE ON PROFESSIONAL STANDARDS. Ct. App. N. Y. Certiorari denied. Reported below: 21 N. Y. 3d 1056, 996 N. E. 2d 907.

No. 13–703. L & F HOMES AND DEVELOPMENT, L. L. C., DBA HYNEMAN HOMES, ET AL. *v.* CITY OF GULFPORT, MISSISSIPPI. C. A. 5th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 395.

No. 13–724. THOMAS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 724 F. 3d 632.

No. 13–725. SHIELDS *v.* CONNECTICUT. Sup. Ct. Conn. Certiorari denied. Reported below: 308 Conn. 678, 69 A. 3d 293.

No. 13–732. McDonough *v.* United States; and
No. 13–740. DiMasi *v.* United States. C. A. 1st Cir. Certiorari denied. Reported below: 727 F. 3d 143.

No. 13–756. Morgan *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 908.

No. 13–6118. Ray *v.* Alabama. Sup. Ct. Ala. Certiorari denied.

No. 13–6544. Rodriguez-Martel *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 341.

No. 13–6659. Benham *v.* Hagen et al. C. A. 9th Cir. Certiorari denied.

No. 13–6909. Trice *v.* Allstate Insurance Co. et al. Sup. Ct. Mo. Certiorari denied.

No. 13–7048. Correll *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–7154. Matei *v.* Kansas. Ct. App. Kan. Certiorari denied. Reported below: 47 Kan. App. 2d xxi, 275 P. 3d 931.

No. 13–7418. Camboni *v.* Allstate Insurance Co. et al. Ct. App. Ariz. Certiorari denied.

No. 13–7434. Silas *v.* California. Sup. Ct. Cal. Certiorari denied.

No. 13–7435. Sasser *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7439. Nance *v.* Chatman, Warden. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 189, 744 S. E. 2d 706.

No. 13–7440. Akins *v.* Illinois. App. Ct. Ill., 1st Dist. Certiorari denied.

No. 13–7441. Boone *v.* Soto, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–7442. Aponte *v.* Florida. Dist. Ct. App. Fla., 3d Dist. Certiorari denied. Reported below: 119 So. 3d 1261.

No. 13–7447. LEVERETTE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. Sup. Ct. Fla. Certiorari denied. Reported below: 122 So. 3d 868.

No. 13–7448. JULES *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied. Reported below: 117 So. 3d 426.

No. 13–7458. CONYERS *v.* VIRGINIA HOUSING DEVELOPMENT AUTHORITY. C. A. 4th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 342.

No. 13–7466. JEFFRIES *v.* GAYLORD ENTERTAINMENT ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 313.

No. 13–7468. WALKER *v.* FISCHER, COMMISSIONER, NEW YORK DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 43.

No. 13–7469. WRIGHT *v.* MCCALL, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 224.

No. 13–7474. RATHY *v.* THOMPSON ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7479. COHRON *v.* CITY OF LOUISVILLE, KENTUCKY, ET AL. C. A. 6th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 534.

No. 13–7486. GRAZZINI-RUCKI *v.* RUCKI. Ct. App. Minn. Certiorari denied.

No. 13–7489. WADE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–7495. KNOX *v.* DIXON CORRECTIONAL INSTITUTE ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 328.

No. 13–7497. GIFFEN *v.* ROSENBLUM, ATTORNEY GENERAL OF OREGON (two judgments). C. A. 9th Cir. Certiorari denied.

No. 13–7500. BOYD *v.* OREGON. Ct. App. Ore. Certiorari denied. Reported below: 251 Ore. App. 526, 287 P. 3d 426.

No. 13–7504. HUMINSKI *v.* CITY OF SURPRISE, ARIZONA, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 746.

No. 13–7506. HOLLIHAN *v.* ROZUM, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7507. HOLDEN *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 13–7510. HILL *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–1081 (La. 7/31/13), 119 So. 3d 602.

No. 13–7512. SUNDAY *v.* SISTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7513. SAUNDERS, AKA MARSH *v.* MISSISSIPPI. Ct. App. Miss. Certiorari denied. Reported below: 119 So. 3d 1051.

No. 13–7517. MILLER *v.* KASHANI ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7519. TUSA *v.* FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7520. TAYLOR *v.* OCWEN LOAN SERVICING, LLC, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 310.

No. 13–7529. HAFEZ *v.* FRAZIER, WARDEN. C. A. 11th Cir. Certiorari denied.

No. 13–7532. HICKINGBOTTOM *v.* LAKE SUPERIOR COURT ET AL. Sup. Ct. Ind. Certiorari denied.

No. 13–7533. ALBERTO MENDOZA *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–7534. PYLE *v.* MARTEL ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 820.

No. 13–7535. OLIVER *v.* ROZUM, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT SOMERSET, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7561. KENNEDY *v.* CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–7576. COLLIER *v.* TENNESSEE. Sup. Ct. Tenn. Certiorari denied. Reported below: 411 S. W. 3d 886.

No. 13–7596. ANDERSON *v.* FOLINO, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GREENE, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 533 Fed. Appx. 55.

No. 13–7619. WILLIAMS *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2013 WI App 30, 346 Wis. 2d 280, 827 N. W. 2d 929.

No. 13–7632. GUTIERREZ *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 100 App. Div. 3d 656, 952 N. Y. S. 2d 897.

No. 13–7636. HAM *v.* BOARD OF TRUSTEES OF THE LELAND STANFORD JUNIOR UNIVERSITY. Ct. App. Cal., 6th App. Dist. Certiorari denied. Reported below: 216 Cal. App. 4th 330, 156 Cal. Rptr. 3d 893.

No. 13–7642. FOUCHE *v.* HOLENCIK. C. A. 9th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 783.

No. 13–7648. SEKOU *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7665. BROWNING *v.* PENNINGTON ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7666. ALNUTT *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 101 App. Div. 3d 1461, 957 N. Y. S. 2d 412.

No. 13–7676. MANIGAULTE *v.* C. W. POST OF LONG ISLAND UNIVERSITY. C. A. 2d Cir. Certiorari denied. Reported below: 533 Fed. Appx. 4.

No. 13–7677. MACK *v.* DREW, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AS WARDEN FOR THE FEDERAL CORRECTIONAL INSTITUTE AT BENNETTSVILLE, SOUTH CAROLINA, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 222.

No. 13–7681. DECKER *v.* ROBERTS, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 844.

No. 13–7683. EVITT *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied.

No. 13–7691. JONES *v.* UNITED STATES ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 306.

No. 13–7704. DARBY *v.* SCHMALENBERGER, WARDEN, ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–7705. DARBY *v.* NORTH DAKOTA. Sup. Ct. N. D. Certiorari denied.

No. 13–7710. DALE *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7715. FIGUEROA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 729 F. 3d 267.

No. 13–7734. LANDRITH *v.* SCHMIDT, ATTORNEY GENERAL OF KANSAS, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 942.

No. 13–7751. MOIE *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 81 A. 3d 987.

No. 13–7787. RAGAN *v.* COMMISSIONER OF INTERNAL REVENUE. C. A. 8th Cir. Certiorari denied.

No. 13–7837. WHITLEY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–7840. UTSEY *v.* DONAHOE, POSTMASTER GENERAL. C. A. 9th Cir. Certiorari denied.

No. 13–7844. BAILEY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7845. BARAJAS-RAMIREZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 392.

No. 13–7850. BEARD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 370.

No. 13–7854. COLLINS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7864. DREW *v.* UNITED STATES. C. A. D. C. Cir. Certiorari denied.

No. 13–7865. SANTIAGO *v.* SAUERS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7869. NOSOV *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 526 Fed. Appx. 127.

No. 13–7874. CASTILLO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 500.

No. 13–7877. JOHNSON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 876.

No. 13–7881. COLLINS *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7883. CARDOZA-SARABIA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 932.

No. 13–7886. DAVIS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 30 A. 3d 810.

No. 13–7887. STARKS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 843.

No. 13–7892. RODRIGUEZ, AKA RODRIGUEZ-NUNEZ, AKA FLORES *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 715 F. 3d 451.

No. 13–7893. ANGEL CARDONA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 296.

No. 13–7901. PETERSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7902. DEL VALLE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–7906. TORRES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 964.

No. 13–7917. GAUSE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 234.

No. 13–7919. BARTKO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 728 F. 3d 327.

No. 13–7920. LARA ARGUELLES *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 338.

No. 13–7921. CROCKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7924. DAWSON *v.* CROSS, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 469.

No. 13–7926. GODDARD *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 753.

No. 13–7928. GRAY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 730 F. 3d 645.

No. 13–7931. HERON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 721 F. 3d 896.

No. 13–7932. CARD *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 765.

No. 13–7933. STEWART *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 729 F. 3d 517.

No. 13–7934. STUBBLEFIELD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–7945. GRIFFIN *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–7946. SMITH *v.* SECRETARY, PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION. C. A. 3d Cir. Certiorari denied. Reported below: 540 Fed. Appx. 80.

No. 13–7948. SIMMONS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7954. MONDESTIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 819.

No. 13–7955. MARTINEZ, AKA MARCANO *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–7959. WESTMORELAND *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 221.

No. 13–7966. FAY *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–7967. GIBBS *v.* WILSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 307.

No. 13–7979. JOHNSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 519 Fed. Appx. 168.

No. 13–7982. VANDERWEELE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 465.

No. 13–7985. TAYLOR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 758.

No. 13–7986. BOTTORFF *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 947.

No. 13–7987. STANFIELD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 547 Fed. Appx. 194.

No. 13–7988. STUCKEY ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 198.

No. 13–7990. THANH VIET CAO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 526 Fed. Appx. 798.

No. 13–8001. BURKE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 720.

No. 13–8007. ZAVALA-BOLANOS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 777.

No. 13–8008. ORANGE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 952.

No. 13–8012. WALKER *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 256.

No. 13–8013. REED *v.* WILLIAMS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 661.

No. 13–8021. FABRICANT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 506 Fed. Appx. 636.

No. 13–8022. STARKS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–8027. GARCIA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 703 F. 3d 471.

No. 13–8031. ANDERSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 668.

No. 13–8032. BREWER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8035. REMBLE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 436.

No. 13–8036. SATCHER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 547 Fed. Appx. 222.

No. 13–405. SAFFRAN *v.* JOHNSON & JOHNSON ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 712 F. 3d 549.

No. 13–603. HOFFNER, WARDEN *v.* WALKER. C. A. 6th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. JUSTICE SCALIA and JUSTICE ALITO would grant the petition for writ of certiorari. Reported below: 534 Fed. Appx. 406.

No. 13–618. DIRECTV ET AL. *v.* K-TECH TELECOMMUNICATIONS, INC. C. A. Fed. Cir. Certiorari denied. THE CHIEF JUSTICE took no part in the consideration or decision of this petition. Reported below: 714 F. 3d 1277.

No. 13–743. SCRUSHY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 721 F. 3d 1288.

No. 13–7509. GRMUSA *v.* PNC BANK. Super. Ct. Pa. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 60 A. 3d 852.

No. 13–7862. SANDOVAL *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–8000. BULLOCK *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 532 Fed. Appx. 179.

Rehearing Denied

No. 12–9984. HALL *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY, 570 U. S. 909;

No. 12–10264. OQUENDO SALADINO *v.* UNITED STATES, *ante*, p. 843;

No. 13–525. LINDSEY *v.* HIGHWOODS REALTY LIMITED PARTNERSHIP ET AL., *ante*, p. 1095;

No. 13–549. BOERI *v.* UNITED STATES, *ante*, p. 1095;

No. 13–5071. IN RE WILLIAMS, *ante*, p. 1023;

No. 13–5191. SINCLAIR *v.* CITI MORTGAGE, INC., ET AL., *ante*, p. 902;

No. 13–6096. DASH *v.* CHASEN ET AL., *ante*, p. 1096;

No. 13–6377. JACOBS *v.* BUREAU OF PRISONS ET AL., *ante*, p. 997;

No. 13–6547. DOWDY *v.* PRUETT, WARDEN, *ante*, p. 1077;

No. 13–6561. IN RE JENKINS, *ante*, p. 1070;

No. 13–6730. CHARLINE P. *v.* CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES, *ante*, p. 1079;

No. 13–6845. VIRAY *v.* EIGHTH JUDICIAL DISTRICT COURT OF NEVADA, CLARK COUNTY, ET AL., *ante*, p. 1080;

No. 13–6846. WILSON *v.* OAKLAND COUNTY PROBATION OFFICE, *ante*, p. 1112;

No. 13–6897. ALMY *v.* KICKERT SCHOOL BUS LINE, INC., *ante*, p. 1080; and

No. 13–7148. IN RE SUDBERRY, *ante*, p. 1070. Petitions for rehearing denied.

No. 09–9902. JOHNSON ET AL. *v.* UNITED STATES, 559 U. S. 1113. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–542. KLEIN *v.* TAP PHARMACEUTICAL PRODUCTS, INC., ET AL., *ante*, p. 1104; and

No. 13–6515. STARTUP *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA ET AL., *ante*, p. 1086. Petitions for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of these petitions.

No. 13–6725. SEARLES *v.* BERKEL ET AL., *ante*, p. 1104. Petition for rehearing denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–6739. MOSES *v.* TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, *ante*, p. 1080. Motion of petitioner for leave to file petition for rehearing under seal with redacted copies for the public record granted. Petition for rehearing denied.

JANUARY 29, 2014

Miscellaneous Orders

No. 13A784. SMULLS *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied.

No. 13A790. LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. *v.* SMULLS. Application to vacate stay of execution of sentence of death entered by the United States Court of Appeals for the Eighth Circuit on January 28, 2014, presented to JUSTICE ALITO, and by him referred to the Court, granted.

Certiorari Denied

No. 13–8432 (13A783). SMULLS *v.* MISSOURI. Sup. Ct. Mo. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied. The order heretofore entered by JUSTICE ALITO is vacated.

No. 13–8440 (13A791). SMULLS *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

JANUARY 30, 2014

Dismissal Under Rule 46

No. 13–759. FRAZIER *v.* LIFE INSURANCE COMPANY OF NORTH AMERICA. C. A. 6th Cir. Certiorari dismissed under this Court's Rule 46.1. Reported below: 725 F. 3d 560.

February 5, 2014

Certiorari Denied

No. 13–8558 (13A804). Basso *v.* Texas (two judgments). 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.

February 12, 2014

Certiorari Denied

No. 13–8605 (13A813). Carlos Chavez *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: 132 So. 3d 826.

No. 13–8673 (13A837). Carlos Chavez *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.

No. 13–8681 (13A838). Carlos Chavez *v.* Palmer, Warden, 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: 742 F. 3d 1267.

February 21, 2014

Miscellaneous Orders

No. 12–1117. Plumhoff et al. *v.* Rickard, a Minor Child, Individually, and as Surviving Daughter of Rickard, Deceased, By and Through Her Mother Rickard, as Parent and Next Friend. C. A. 6th Cir. [Certiorari granted, *ante*, p. 1020.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

No. 12–8561. Paroline *v.* United States et al. C. A. 5th Cir. [Certiorari granted, 570 U. S. 931.] Motion of respondent Amy Unknown for leave to file a supplemental brief after argument granted. The other parties may file supplemental briefs, not to exceed 3,000 words each, addressing the effect of our deci-

sion in *Burrage* v. *United States*, *ante*, p. 204, on this case, on or before Friday, March 7, 2014.

No. 13–317. HALLIBURTON CO. ET AL. *v.* ERICA P. JOHN FUND, INC., FKA ARCHDIOCESE OF MILWAUKEE SUPPORTING FUND, INC. C. A. 5th Cir. [Certiorari granted, *ante*, p. 1020.] Motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument granted.

FEBRUARY 24, 2014

Certiorari Granted—Vacated and Remanded. (See also No. 13–6440, *ante*, p. 263.)

No. 13–439. CARMAX AUTO SUPERSTORES CALIFORNIA, LLC, ET AL. *v.* FOWLER ET AL. Ct. App. Cal., 2d App. Dist., Div. 1. Certiorari granted, judgment vacated, and case remanded for further consideration in light of *American Express Co.* v. *Italian Colors Restaurant*, 570 U. S. 228 (2013).

No. 13–5997. FORD *v.* UNITED STATES. C. A. 8th 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 *Burrage* v. *United States*, *ante*, p. 204. Reported below: 717 F. 3d 612.

No. 13–6733. SNIPES *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 the position asserted by the Solicitor General in his brief for the United States filed on January 3, 2014.

No. 13–7283. STORY *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 the position asserted by the Solicitor General in his brief for the United States filed on January 8, 2014.

Certiorari Dismissed

No. 13–7664. JONES *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. 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*). Reported below: 122 So. 3d 878.

No. 13–7826. LAWHORN *v.* WRIGHT, 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: 537 Fed. Appx. 141.

No. 13–7876. JOHNSON ET AL. *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 7th Cir. Motion of Zachary Johnson for leave to proceed *in forma pauperis* denied, and certiorari dismissed as to petitioner Johnson. See this Court's Rule 39.8. Certiorari denied as to petitioner Russell K. Hill.

No. 13–7911. COBBLE *v.* OWENS, COMMISSIONER, GEORGIA DEPARTMENT OF CORRECTIONS, ET AL. Super. Ct. Fulton County, Ga. Motion of petitioner for leave to proceed *in forma pauperis* denied, and certiorari dismissed. See this Court's Rule 39.8.

No. 13–7938. TATE *v.* 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. 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. 13–8168. CHAN LAI *v.* IPSON 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. Reported below: 474 Fed. Appx. 595.

No. 13–8315. SETTLE *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 peti-

tioner 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 KAGAN took no part in the consideration or decision of this motion and this petition.

Miscellaneous Orders

No. 12A239. MUHAMMAD *v.* UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT. C. A. 4th Cir. Application for stay, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. 13A654. JONES ET AL. *v.* GRIGGS. C. A. 7th Cir. Application for stay, addressed to JUSTICE GINSBURG and referred to the Court, denied.

No. 13A681. MCDERMOTT *v.* PIFER. Sup. Ct. N. D. Application for stay, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. 13A705. SMITH ET UX. *v.* COUNTRYWIDE HOME LOANS, INC., ET AL. C. A. 11th Cir. Application for stay, addressed to JUSTICE SOTOMAYOR and referred to the Court, denied.

No. 13A776 (13–8374). CARDWELL *v.* PALMETTO BANK. Ct. App. S. C. Application for stay, addressed to JUSTICE SCALIA and referred to the Court, denied.

No. D–2743. IN RE DISBARMENT OF MCGARRY. Disbarment entered. [For earlier order herein, see *ante*, p. 1008.]

No. D–2744. IN RE DISBARMENT OF LEZELL. Disbarment entered. [For earlier order herein, see *ante*, p. 1008.]

No. D–2746. IN RE DISBARMENT OF BLANK. Disbarment entered. [For earlier order herein, see *ante*, p. 1009.]

No. D–2758. IN RE DISCIPLINE OF VESEL. David Alan Vesel, of Creedmoor, 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–2759. IN RE DISCIPLINE OF MALINSKI. Norman Malinski, of Aventura, 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–2760. IN RE DISCIPLINE OF DALY. Timothy Francis Daly, of Rockville Centre, 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–2761. IN RE DISCIPLINE OF CORMIER. B. Michael Cormier, of Haverhill, Mass., 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–2762. IN RE DISCIPLINE OF YARBROUGH. David Coleman Yarbrough, of Montgomery, Ala., 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–2763. IN RE DISCIPLINE OF CRAFT. Bruce Allen Craft, of Baton Rouge, La., 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–2764. IN RE DISCIPLINE OF AHAGHOTU. Amako N. K. Ahaghotu, 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–2765. IN RE DISCIPLINE OF EDELSON. Leon Irwin Edelson, of Deerfield, Ill., 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–2766. IN RE DISCIPLINE OF SMIEKEL. Jason W. Smiekel, of Lisbon, Ohio, 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–2767. IN RE DISCIPLINE OF WITTNER. Howard Allen Wittner, of St. Louis, Mo., 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–2768. IN RE DISCIPLINE OF COURY. Elie S. Coury, of Danbury, Conn., 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. 13M74. DOE *v.* HARRIS, ATTORNEY GENERAL OF CALIFORNIA. Motion for leave to file petition for writ of certiorari under seal with redacted copies for the public record granted.

No. 13M75. MOORE *v.* SCHMIDT;

No. 13M76. HAYES *v.* ADAMS, WARDEN;

No. 13M77. DEWS *v.* SUPERIOR COURT OF CALIFORNIA, FRESNO COUNTY;

No. 13M81. CONWAY *v.* UNITED STATES;

No. 13M82. GIOVANNIELLO *v.* ALM MEDIA, LLC;

No. 13M83. MOORE *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION;

No. 13M84. POLAND *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL.; and

No. 13M85. COSBY *v.* UNITED STATES. Motions to direct the Clerk to file petitions for writs of certiorari out of time denied.

No. 13M78. CUYLER *v.* AURORA LOAN SERVICES, LLC, ET AL.; and

No. 13M80. HWANG ET AL. *v.* TOWN OF REHOBOTH, MASSACHUSETTS. Motions to direct the Clerk to file petitions for writs of certiorari out of time under this Court's Rule 14.5 denied.

No. 13M79. RISEN *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 12–10989. FABIAN *v.* GUTTMAN. C. A. 4th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 812] denied.

No. 13–339. CTS CORP. *v.* WALDBURGER ET AL. C. A. 4th Cir. [Certiorari granted, *ante*, p. 1118.] Motion of petitioner to dispense with printing joint appendix granted.

No. 13–6892. TAGOE, AKA ROBERTS *v.* DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES ET AL. Ct. App. D. C. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1122] denied.

No. 13–7046. DYDZAK *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. C. A. 9th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1120] denied.

No. 13–7306. SIMS *v.* AMERICAN DEVELOPMENT GROUP ET AL. C. A. 2d Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1120] denied.

No. 13–7426. JOHNSON *v.* UNITED STATES. C. A. 11th Cir. Motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1121] denied. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 13–7709. TODD *v.* HEALEY. App. Ct. Ill., 2d Dist.;

No. 13–7749. NYANJOM *v.* HAWKER BEECHCRAFT, INC. C. A. 10th Cir.;

No. 13–7756. DEL GIORNO *v.* WEST VIRGINIA BOARD OF MEDICINE. C. A. 4th Cir.;

No. 13–7789. BUSTOS *v.* RUBERA ET AL. C. A. 9th Cir.;

No. 13–7910. DELGADO *v.* POLK ET AL. C. A. 7th Cir.;

No. 13–7929. GOSSAGE *v.* MERIT SYSTEMS PROTECTION BOARD. C. A. Fed. Cir.; and

No. 13–8111. MILLER *v.* UNITED STATES. C. A. 5th Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until March 17, 2014, 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. 13–8229. IN RE EVANS;

No. 13–8235. IN RE HAAG;
No. 13–8277. IN RE WOODARD;
No. 13–8297. IN RE WILLIAMS;
No. 13–8316. IN RE THOMPSON;
No. 13–8460. IN RE TUCKER; and
No. 13–8484. IN RE GODFREY. Petitions for writs of habeas corpus denied.

No. 13–7888. IN RE BITON; and
No. 13–8173. IN RE MCPHATE. Petitions for writs of mandamus denied.

No. 13–7895. IN RE BITON; and
No. 13–7918. IN RE BITON. Motions of petitioner for leave to proceed *in forma pauperis* denied, and petitions for writs of mandamus dismissed. See this Court's Rule 39.8.

No. 13–7558. IN RE KIDWELL ET UX. Petition for writ of mandamus and/or prohibition denied.

No. 13–7937. IN RE WARE. Petition for writ of mandamus and/or prohibition denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–7889. IN RE BITON. Petition for writ of prohibition denied.

No. 13–7890. IN RE BITON;
No. 13–7891. IN RE BITON;
No. 13–7894. IN RE BITON;
No. 13–7898. IN RE BITON; and
No. 13–7899. IN RE BITON. Motions of petitioner for leave to proceed *in forma pauperis* denied, and petitions for writs of prohibition dismissed. See this Court's Rule 39.8.

Certiorari Denied. (See also No. 13–7876, *supra*.)

No. 12–1401. LANE ET AL. *v.* HOLDER, ATTORNEY GENERAL, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 703 F. 3d 668.

No. 12–10257. JOHNSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 706 F. 3d 728.

No. 12–10821. BALTAZAR GARCIA *v.* UNITED STATES; and

No. 13–5675. SNARR *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 704 F. 3d 368.

No. 13–137. NATIONAL RIFLE ASSOCIATION OF AMERICA, INC., ET AL. *v.* BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 700 F. 3d 185.

No. 13–138. BSH HOME APPLIANCES CORP. *v.* COBB ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–174. ROJAS-PEREZ ET UX. *v.* HOLDER, ATTORNEY GENERAL. C. A. 1st Cir. Certiorari denied. Reported below: 699 F. 3d 74.

No. 13–274. MACKAY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 715 F. 3d 807.

No. 13–275. VALDEZ-AVALOS *v.* ILLINOIS. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2013 IL App (3d) 120192–U.

No. 13–304. MCCARRON *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 710 F. 3d 1336.

No. 13–390. NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. *v.* MCCRAW, DIRECTOR OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY. C. A. 5th Cir. Certiorari denied. Reported below: 719 F. 3d 338.

No. 13–400. MERCHANT *v.* HOLDER, ATTORNEY GENERAL. C. A. 7th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 459.

No. 13–411. MORTON ET AL. *v.* U. S. BANK, N. A. C. A. 2d Cir. Certiorari denied. Reported below: 504 Fed. Appx. 30.

No. 13–430. SEARS, ROEBUCK & CO. *v.* BUTLER ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. C. A. 7th Cir. Certiorari denied. Reported below: 727 F. 3d 796.

No. 13–431. WHIRLPOOL CORP. *v.* GLAZER ET AL., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. C. A. 6th Cir. Certiorari denied. Reported below: 722 F. 3d 838.

No. 13–443. SCHUETTE, ATTORNEY GENERAL OF MICHIGAN, ET AL. *v.* FEDERAL ENERGY REGULATORY COMMISSION; and

No. 13–445. Hoosier Energy Rural Electric Cooperative, Inc., et al. *v.* Federal Energy Regulatory Commission. C. A. 7th Cir. Certiorari denied. Reported below: 721 F. 3d 764.

No. 13–455. Official Committee of Unsecured Creditors of Quebecor World (USA) Inc. *v.* American United Life Insurance Co. et al. C. A. 2d Cir. Certiorari denied. Reported below: 719 F. 3d 94.

No. 13–457. Marquez Moreno *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 727 F. 3d 255.

No. 13–462. CITGO Asphalt Refining Co. et al. *v.* Frescati Shipping Co., Ltd., et al. C. A. 3d Cir. Certiorari denied. Reported below: 718 F. 3d 184.

No. 13–494. Williams *v.* California. Sup. Ct. Cal. Certiorari denied. Reported below: 56 Cal. 4th 630, 299 P. 3d 1185.

No. 13–536. Leimkuehler, as Trustee of and on Behalf of the Leimkuehler, Inc. Profit Sharing Plan *v.* American United Life Insurance Co. C. A. 7th Cir. Certiorari denied. Reported below: 713 F. 3d 905.

No. 13–537. Jensen et al., Individually and on Behalf of All Others Similarly Situated *v.* Solvay Chemicals, Inc., et al. C. A. 10th Cir. Certiorari denied. Reported below: 721 F. 3d 1180.

No. 13–538. Hawkins *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 706 F. 3d 820.

No. 13–555. Wolfe *v.* Clarke, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied. Reported below: 718 F. 3d 277.

No. 13–564. DiCristina *v.* United States. C. A. 2d Cir. Certiorari denied. Reported below: 726 F. 3d 92.

No. 13–579. Wilson, Superintendent, Indiana State Prison *v.* Stitts. C. A. 7th Cir. Certiorari denied. Reported below: 713 F. 3d 887.

No. 13–606. Patel *v.* Johnson, Secretary of Homeland Security, et al. C. A. 4th Cir. Certiorari denied. Reported below: 706 F. 3d 370.

No. 13–620. City of Burbank, California *v.* Dahlia. C. A. 9th Cir. Certiorari denied. Reported below: 735 F. 3d 1060.

No. 13–621. Betlach, Director, Arizona Health Care Cost Containment System, et al. *v.* Planned Parenthood Arizona, Inc., et al. C. A. 9th Cir. Certiorari denied. Reported below: 727 F. 3d 960.

No. 13–639. Hatchigian *v.* International Brotherhood of Electrical Workers, Local Union No. 98, Health & Welfare Fund, et al. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 181.

No. 13–646. RCS Capital Development, LLC *v.* ABC Learning Centres Ltd., nka ZYX Learning Centres Ltd., et al. C. A. 3d Cir. Certiorari denied. Reported below: 728 F. 3d 301.

No. 13–650. United States ex rel. Newell *v.* City of Saint Paul, Minnesota. C. A. 8th Cir. Certiorari denied. Reported below: 728 F. 3d 791.

No. 13–654. Z. Q. *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. Sup. Ct. Tex. Certiorari denied.

No. 13–658. Mathis *v.* Goldberg et al. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 310.

No. 13–665. Skinner *v.* Addison, Warden. C. A. 10th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 692.

No. 13–666. Jones *v.* HSBC. C. A. 3d Cir. Certiorari denied. Reported below: 518 Fed. Appx. 103.

No. 13–675. Ozinal *v.* Johns Hopkins Health System Corp. et al. Ct. Sp. App. Md. Certiorari denied. Reported below: 211 Md. App. 763 and 766.

No. 13–676. Tennis Channel, Inc. *v.* Comcast Cable Communications, LLC, et al. C. A. D. C. Cir. Certiorari denied. Reported below: 717 F. 3d 982.

No. 13–686. Justice *v.* United States District Court for the Eastern District of Tennessee. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 291.

No. 13–691. Shelton et al. *v.* Gravelet-Blondin et ux. C. A. 9th Cir. Certiorari denied. Reported below: 728 F. 3d 1086.

No. 13–692. Walker *v.* Trinity Marine Products, Inc., et al. C. A. 8th Cir. Certiorari denied. Reported below: 721 F. 3d 542.

No. 13–694. Aboytes Garcia *v.* Ault, Warden. C. A. 8th Cir. Certiorari denied.

No. 13–695. Whittaker *v.* Morgan State University et al. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 58.

No. 13–698. Martin et al. *v.* Brondum et al. C. A. 4th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 242.

No. 13–707. Cooper B-Line, Inc. *v.* Crosby. C. A. 7th Cir. Certiorari denied. Reported below: 725 F. 3d 795.

No. 13–709. Sinclair-Allison, Inc. *v.* Fifth Avenue Physician Services, LLC, et al. C. A. Fed. Cir. Certiorari denied. Reported below: 530 Fed. Appx. 939.

No. 13–710. Dismukes *v.* Illinois Department of Employment Security et al. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 113379–U.

No. 13–711. Payne *v.* City of Decatur, Alabama. Ct. Civ. App. Ala. Certiorari denied. Reported below: 141 So. 3d 500.

No. 13–713. Jones *v.* City of Montgomery, Alabama. Sup. Ct. Ala. Certiorari denied. Reported below: 170 So. 3d 722.

No. 13–714. Firebaugh Canal Water District et al. *v.* United States et al. C. A. 9th Cir. Certiorari denied. Reported below: 712 F. 3d 1296.

No. 13–715. Hixson et vir *v.* CitiMortgage, Inc., et al. C. A. 11th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 767.

No. 13–717. Gulf States Reorganization Group, Inc. *v.* Nucor Corp. C. A. 11th Cir. Certiorari denied. Reported below: 721 F. 3d 1281.

No. 13–718. McBroom *v.* Dickerson. Ct. App. Tex., 14th Dist. Certiorari denied.

No. 13–721. Ewan et al. *v.* Hartford Casualty Insurance Co. et al. C. A. 6th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 553.

No. 13–723. Willoughby et ux. *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 730 F. 3d 476.

No. 13–726. Simmons *v.* Countrywide Home Loans et al. C. A. 6th Cir. Certiorari denied.

No. 13–727. Cox *v.* Director, Office of Workers' Compensation Programs, Department of Labor, et al. C. A. 5th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 311.

No. 13–728. Curtis et al., Individually and on Behalf of All Others Similarly Situated *v.* Alcoa, Inc., et al. C. A. 6th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 371.

No. 13–729. D. B., by His Next Friend Kurtis B., et al. *v.* Kopp et al. C. A. 7th Cir. Certiorari denied. Reported below: 725 F. 3d 681.

No. 13–730. Prewitt *v.* Mississippi State University. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 322.

No. 13–734. Christie *v.* Obama, President of the United States. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 88.

No. 13–735. Medina *v.* Arizona. Sup. Ct. Ariz. Certiorari denied. Reported below: 232 Ariz. 391, 306 P. 3d 48.

No. 13–736. Doe *v.* Heil, Acting Manager, Colorado Department of Corrections, Sex Offender Treatment and Monitoring Program, et al. C. A. 10th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 831.

No. 13–738. Maersk Line Ltd. *v.* Padilla. C. A. 2d Cir. Certiorari denied. Reported below: 721 F. 3d 77.

No. 13–741. Moore *v.* Ad Hoc Committee on Attorney Admissions, Peer Review, et al. C. A. 11th Cir. Certiorari denied.

No. 13–745. Cassens Transport Co. *v.* Lewis, Individually and as Personal Representative of the Estate of Lewis, et al. C. A. 4th Cir. Certiorari denied.

No. 13–746. Kramer *v.* Federal National Mortgage Association, aka Fannie Mae, et al. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 319.

No. 13–747. Mahoning County, Ohio, et al. *v.* Graves et al. C. A. 6th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 399.

No. 13–748. Wajda *v.* Holder, Attorney General. C. A. 6th Cir. Certiorari denied. Reported below: 727 F. 3d 457.

No. 13–749. Broussard et al. *v.* Maples et al. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 825.

No. 13–750. Austin and Laurato, P. A., et al. *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 957.

No. 13–751. Green *v.* Illinois. App. Ct. Ill., 3d Dist. Certiorari denied. Reported below: 2013 IL App (3d) 120190–U.

No. 13–752. Faxon *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–753. Barton *v.* Hayes et al. C. A. 8th Cir. Certiorari denied.

No. 13–755. Morsa *v.* Patent and Trademark Office. C. A. Fed. Cir. Certiorari denied. Reported below: 713 F. 3d 104.

No. 13–757. Jafari *v.* Old Dominion Transit Management Co., dba Greater Richmond Transit Co. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 238.

No. 13–760. Turza *v.* Holtzman, Individually and on Behalf of All Others Similarly Situated. C. A. 7th Cir. Certiorari denied. Reported below: 728 F. 3d 682.

No. 13–763. Salameh et al. *v.* Tarsadia Hotel et al. C. A. 9th Cir. Certiorari denied. Reported below: 726 F. 3d 1124.

No. 13–764. BICKERSTAFF *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied.

No. 13–765. QUINN *v.* TEXAS. Ct. App. Tex., 5th Dist. Certiorari denied.

No. 13–766. RICH *v.* OHIO. Ct. App. Ohio, 12th App. Dist., Butler County. Certiorari denied. Reported below: 2013-Ohio-857.

No. 13–769. WEST DUNDEE CHINA PALACE RESTAURANT, INC., ET AL. *v.* WELLINGTON HOMES, INC., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2013 IL App (2d) 120740, 984 N. E. 2d 554.

No. 13–771. UESCO INDUSTRIES, INC., INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED *v.* POOLMAN OF WISCONSIN, INC. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 112566, 993 N. E. 2d 97.

No. 13–773. ROYAL AMERICAN MANAGEMENT, INC. *v.* WOLFF. C. A. 11th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 791.

No. 13–774. SIEGEL, ADMINISTRATOR OF THE ESTATE OF AKKAD, DECEASED, ET AL. *v.* HYATT INTERNATIONAL (EUROPE, AFRICA, MIDDLE EAST) LLC ET AL. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103524–U.

No. 13–779. EARNEST *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 13–782. SANAI *v.* WASHINGTON STATE BAR ASSOCIATION DISCIPLINARY BOARD. Sup. Ct. Wash. Certiorari denied. Reported below: 177 Wash. 2d 743, 302 P. 3d 864.

No. 13–783. AYERS *v.* SHEETZ, INC. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 285.

No. 13–784. CITY OF HOUSTON, TEXAS *v.* REA, ACTING DIRECTOR, PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 731 F. 3d 1326.

No. 13–785. STOREY *v.* KELLERHER. Sup. Ct. Nev. Certiorari denied. Reported below: 128 Nev. 938, 381 P. 3d 667.

No. 13–792. STINN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 515 Fed. Appx. 4.

No. 13–798. DOTY *v.* MOLNAR. Sup. Ct. Mont. Certiorari denied. Reported below: 372 Mont. 550, 317 P. 3d 204.

No. 13–801. BELL *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 683, 748 S. E. 2d 382.

No. 13–805. MONTANA *v.* HOLDER, ATTORNEY GENERAL. C. A. 9th Cir. Certiorari denied. Reported below: 727 F. 3d 975.

No. 13–808. SWANSON *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–809. STEPOVICH *v.* ALASKA. Ct. App. Alaska. Certiorari denied. Reported below: 299 P. 3d 734.

No. 13–810. NELSON *v.* SHANE ET AL. Ct. App. Ga. Certiorari denied.

No. 13–816. BRUNSON *v.* AURORA LOAN SERVICES, LLC. Ct. App. Utah. Certiorari denied.

No. 13–821. FLINT *v.* MCDONALD, JUDGE, KENTUCKY CIRCUIT COURT. C. A. 6th Cir. Certiorari denied.

No. 13–828. DIAMOND ET UX. *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 530 Fed. Appx. 943.

No. 13–831. SELVAGGIO *v.* FEDERAL RETIREMENT THRIFT INVESTMENT BOARD ET AL. C. A. D. C. Cir. Certiorari denied.

No. 13–832. PERRY *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 347.

No. 13–839. FOX, ATTORNEY GENERAL OF MONTANA, ET AL. *v.* SANDERS COUNTY REPUBLICAN CENTRAL COMMITTEE. C. A. 9th Cir. Certiorari denied. Reported below: 717 F. 3d 1090.

No. 13–840. AGERTON ET AL. *v.* PILGRIM'S PRIDE CORP. C. A. 5th Cir. Certiorari denied. Reported below: 728 F. 3d 457.

No. 13–843. HORRAS *v.* AMERICAN CAPITAL STRATEGIES, LTD. C. A. 8th Cir. Certiorari denied. Reported below: 729 F. 3d 798.

No. 13–844. GORDON *v.* REA, ACTING DIRECTOR, PATENT AND TRADEMARK OFFICE. C. A. Fed. Cir. Certiorari denied. Reported below: 534 Fed. Appx. 991.

No. 13–845. SHETTY *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 675.

No. 13–904. GENOVA *v.* BANNER HEALTH ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 734 F. 3d 1095.

No. 13–5319. GREEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 709 F. 3d 1082.

No. 13–5603. NAMVAR *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 498 Fed. Appx. 749.

No. 13–5756. HAGANS *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 3d Cir. Certiorari denied. Reported below: 694 F. 3d 287.

No. 13–5808. GONZALEZ-SILVA *v.* UNITED STATES (Reported below: 519 Fed. Appx. 306); RAMIREZ-LOARCA *v.* UNITED STATES (519 Fed. Appx. 316); GARCIA-CORDERO *v.* UNITED STATES (544 Fed. Appx. 411); PERALES ORDUNA *v.* UNITED STATES (544 Fed. Appx. 441); BARRIOS-QUIROZ *v.* UNITED STATES (520 Fed. Appx. 260); VAZQUEZ MEDINA, AKA JAIME VAZQUEZ, AKA VASQUEZ *v.* UNITED STATES (531 Fed. Appx. 508); BLANCO-FORTUNA *v.* UNITED STATES (534 Fed. Appx. 261); MARTINEZ OLGUIN, AKA MARTINEZ, AKA OLGUIN MARTINEZ, AKA OLQUIN MARTINEZ *v.* UNITED STATES (535 Fed. Appx. 396); JAIMES VILLANUEVA, AKA VILLANUEVA JAIMES, AKA JAIMES VAILLANUEVA *v.* UNITED STATES (535 Fed. Appx. 419); MARQUEZ-DELGADO *v.* UNITED STATES (537 Fed. Appx. 318); MORALES SANTOS, AKA SANTOS-MORALEZ, AKA SANTOS MORALEZ *v.* UNITED STATES (537 Fed. Appx. 462); and ACOSTA-ESCOBAR *v.* UNITED STATES (537 Fed. Appx. 472). C. A. 5th Cir. Certiorari denied.

No. 13–5998. BYROM *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 518 Fed. Appx. 243.

No. 13–6006. JORDAN *v.* PENNSYLVANIA. Sup. Ct. Pa. Certiorari denied. Reported below: 619 Pa. 513, 65 A. 3d 318.

No. 13–6149. RUELAS *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 711 F. 3d 1194.

No. 13–6384. PERRY *v.* MCCALL, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 363.

No. 13–6556. ESLER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 502.

No. 13–6851. GUTIERRES-LANDEROS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 319.

No. 13–6852. FERNANDEZ-RUBIO *v.* UNITED STATES (Reported below: 537 Fed. Appx. 666); FLORES-PERLA *v.* UNITED STATES (539 Fed. Appx. 349); LOPEZ-BERNAL *v.* UNITED STATES (539 Fed. Appx. 374); ALCARAZ-JIMENEZ *v.* UNITED STATES (539 Fed. Appx. 401); and SANTIBANEZ-LUVIANO *v.* UNITED STATES (539 Fed. Appx. 368). C. A. 5th Cir. Certiorari denied.

No. 13–6874. OTUYA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 720 F. 3d 183.

No. 13–7034. CANNON *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 251.

No. 13–7042. JONES *v.* PREMO, SUPERINTENDENT, OREGON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied. Reported below: 513 Fed. Appx. 648.

No. 13–7050. PATTERSON *v.* NEVADA. Sup. Ct. Nev. Certiorari denied. Reported below: 129 Nev. 168, 298 P. 3d 433.

No. 13–7058. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 581.

No. 13–7146. CRAWFORD *v.* EPPS, COMMISSIONER, MISSISSIPPI DEPARTMENT OF CORRECTIONS. C. A. 5th Cir. Certiorari denied. Reported below: 531 Fed. Appx. 511.

No. 13–7266. MENDEZ *v.* UNITED STATES. C. A. Fed. Cir. Certiorari denied. Reported below: 540 Fed. Appx. 986.

No. 13–7320. GRONER *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 500 Fed. Appx. 956.

No. 13–7334. PICKETT *v.* ALLEN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 528 Fed. Appx. 714.

No. 13–7342. SHOCKLEY *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 410 S. W. 3d 179.

No. 13–7456. MOORE *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 795.

No. 13–7491. HERNANDEZ *v.* ARIZONA. Sup. Ct. Ariz. Certiorari denied. Reported below: 232 Ariz. 313, 305 P. 3d 378.

No. 13–7544. PERSONIUS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 344.

No. 13–7550. SIEVERS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 256.

No. 13–7553. ROGERS *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied. Reported below: 57 Cal. 4th 296, 304 P. 3d 124.

No. 13–7563. JAMERSON *v.* RUNNELS, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 713 F. 3d 1218.

No. 13–7566. BOGANY *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied.

No. 13–7567. BITON *v.* LIPPERT ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–7570. KIRK *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 120 So. 3d 560.

No. 13–7572. LEGG *v.* SOUTH CAROLINA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 199.

No. 13–7573. JONES *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7577. DE ADAMS *v.* GROUNDS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7581. TOMPKINS *v.* ROGERS ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7582. WHITE *v.* SOTO, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7583. VAUGHT *v.* UGWUEZE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 569.

No. 13–7584. LOPEZ ZAMORA *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–7588. THOMPSON *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–7589. WILLIAMS *v.* FALK, WARDEN, ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 763.

No. 13–7593. MYERS *v.* WIETE ET AL. Ct. App. Ind. Certiorari denied. Reported below: 983 N. E. 2d 1201.

No. 13–7598. MENDIA *v.* CITY OF WELLINGTON, KANSAS. Ct. App. Kan. Certiorari denied. Reported below: 48 Kan. App. 2d xxii, 296 P. 3d 1140.

No. 13–7599. MCWILLIAMS *v.* SCHUMACHER ET AL. Ct. App. Ohio, 8th App. Dist., Cuyahoga County. Certiorari denied. Reported below: 2013-Ohio-29.

No. 13–7603. MASSAD-WILLIAMS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7609. BLAKE *v.* CONNOLLY, SUPERINTENDENT, FISHKILL CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–7614. MCCUTCHEN *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD. Sup. Ct. Pa. Certiorari denied. Reported below: 621 Pa. 15, 73 A. 3d 522.

No. 13–7618. PARKER *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 13–7622. VAUGHN *v.* ZATECKY, SUPERINTENDENT, PENDLETON CORRECTIONAL FACILITY. C. A. 7th Cir. Certiorari denied.

No. 13–7629. MAYS *v.* DAVENPORT, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7630. KEELER *v.* ARAMARK. C. A. 10th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 771.

No. 13–7631. LITTLE *v.* WORKERS' COMPENSATION APPEALS BOARD ET AL. Ct. App. Cal., 4th App. Dist., Div. 2. Certiorari denied.

No. 13–7634. ALFORD *v.* PENNSYLVANIA BOARD OF PROBATION AND PAROLE ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7639. GREEN *v.* TRIMBLE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7640. HAGGERTY *v.* SAUERS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT FOREST, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7641. IRBY *v.* O'NEILL ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7649. ROULHAC *v.* JANEK. C. A. 4th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 270.

No. 13–7650. STRATTON *v.* MECKLENBURG COUNTY DEPARTMENT OF SOCIAL SERVICES ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 278.

No. 13–7651. RAMIREZ *v.* LEWIS, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7652. DAVIS *v.* KELSO ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 514 Fed. Appx. 656.

No. 13–7667. POUNCY *v.* MICHIGAN. Cir. Ct. Genesee County, Mich. Certiorari denied.

No. 13–7668. YBARRA *v.* HOOTS. C. A. 8th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 528.

No. 13–7669. ROOKS *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–7672. BAGLEY *v.* SINCLAIR, SUPERINTENDENT, WASHINGTON STATE PENITENTIARY. C. A. 9th Cir. Certiorari denied.

No. 13–7686. CRUMP *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2012 IL App (2d) 110416–U.

No. 13–7687. Dorsey *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied. Reported below: 720 F. 3d 309.

No. 13–7689. Cook *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 217.

No. 13–7702. Eversole *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7706. Denson, aka Shabazz *v.* Florida. Sup. Ct. Fla. Certiorari denied. Reported below: 123 So. 3d 557.

No. 13–7707. Casey *v.* Washington. Sup. Ct. Wash. Certiorari denied.

No. 13–7712. Doyle *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 391.

No. 13–7716. Howell *v.* Crews, Secretary, Florida Department of Corrections. C. A. 11th Cir. Certiorari denied.

No. 13–7717. Williams *v.* Ozmint et al. C. A. 4th Cir. Certiorari denied. Reported below: 716 F. 3d 801.

No. 13–7720. Joyner *v.* Chatman, Warden, et al. C. A. 11th Cir. Certiorari denied.

No. 13–7721. Kaizer *v.* Texas. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 13–7722. Lucero *v.* Archuleta, Warden, et al. C. A. 10th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 769.

No. 13–7726. Barnett *v.* Stephens, Director, Texas Department of Criminal Justice, Correctional Institutions Division. C. A. 5th Cir. Certiorari denied.

No. 13–7728. Torns *v.* McMillin, Sheriff, Hinds County, Mississippi, et al. C. A. 5th Cir. Certiorari denied.

No. 13–7729. WILLIAMS *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 104 So. 3d 1088.

No. 13–7730. WILLIAMS *v.* PHILLIPS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 704.

No. 13–7731. ZINNERMAN *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 123 So. 3d 574.

No. 13–7735. SANCHEZ-TORRES *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 130 So. 3d 661.

No. 13–7736. SABER ET AL. *v.* SABER. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–7737. RHODES *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7739. EVERETT *v.* HARDY, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–7741. CLEVELAND *v.* HAVANEK, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 840.

No. 13–7742. EDENFIELD *v.* GEORGIA. Sup. Ct. Ga. Certiorari denied. Reported below: 293 Ga. 370, 744 S. E. 2d 738.

No. 13–7744. ALTON *v.* JOHNSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 170.

No. 13–7750. PRASAD *v.* HILL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7753. MORRIS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–7758. MANUEL LOPEZ *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 13–7759. SPENCER *v.* LOUISIANA. Sup. Ct. La. Certiorari denied. Reported below: 2013–0797 (La. 9/27/13), 123 So. 3d 719.

No. 13–7760. BROWN *v.* HOFFNER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7763. VENZIE *v.* YATAURO, ADMINISTRATOR, ADULT DIAGNOSTIC AND TREATMENT CENTER. C. A. 3d Cir. Certiorari denied.

No. 13–7764. VAULTS *v.* U. S. BANK, N. A., ET AL. Ct. App. Cal., 4th App. Dist., Div. 1. Certiorari denied.

No. 13–7767. JAMESON *v.* TEXAS. Ct. App. Tex., 7th Dist. Certiorari denied.

No. 13–7775. MCCOLLISTER *v.* CAMERON, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT CRESSON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 535 Fed. Appx. 187.

No. 13–7776. MURRAY, AKA HINES *v.* FEDERAL BUREAU OF PRISONS ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 582.

No. 13–7778. TRIMBLE *v.* BOBBY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7779. HALL *v.* UTAH. Ct. App. Utah. Certiorari denied. Reported below: 2013 UT App 4, 294 P. 3d 632.

No. 13–7781. EVANS *v.* TOWN OF HAMPTON, NEW HAMPSHIRE, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7782. CHRISTOPHER *v.* ST. VINCENT DE PAUL OF BALTIMORE INC. ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 137.

No. 13–7786. JACKSON *v.* SUPERIOR COURT OF CALIFORNIA, VENTURA COUNTY, ET AL. Ct. App. Cal., 2d App. Dist., Div. 6. Certiorari denied.

No. 13–7791. GILLIS *v.* KLEE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7792. GREEN *v.* PRICE, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7793. SINGER *v.* BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS, STATE BOARD OF PSYCHOLOGY, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 185.

No. 13–7794. FILER *v.* POLSTON ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7795. HERRERA *v.* PAIN MANAGEMENT COMMITTEE STAFF. C. A. 9th Cir. Certiorari denied.

No. 13–7796. HARTMANN *v.* JOHNSON, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7797. GORE *v.* GLEBE, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7798. HOWE *v.* BELKNAP ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–7800. HARRISON *v.* STEELE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–7801. HALE *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 636.

No. 13–7805. JACKSON *v.* BAMBERG ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7806. MUSSA *v.* DORMIRE ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–7807. MORRISON *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied.

No. 13–7809. BILLINGS *v.* SUPERIOR COURT OF CALIFORNIA, FRESNO COUNTY, ET AL. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 13–7810. LUIS ARROCHA *v.* CITY UNIVERSITY OF NEW YORK ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 66.

No. 13–7813. QUINTANA *v.* CHANDLER, WARDEN. C. A. 7th Cir. Certiorari denied. Reported below: 723 F. 3d 849.

No. 13–7815. DAY *v.* OKLAHOMA. Ct. Crim. App. Okla. Certiorari denied. Reported below: 2013 OK CR 8, 303 P. 3d 291.

No. 13–7816. LEMKE *v.* RYAN, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 719 F. 3d 1093.

No. 13–7825. JOHNSON *v.* ULINE, INC. C. A. 7th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 613.

No. 13–7827. BOX *v.* STEELE, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–7828. EVANS *v.* MASSACHUSETTS NURSES ASSN. ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7831. MOORE *v.* BRAMWELL ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–7833. ORTIZ *v.* UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA. C. A. 9th Cir. Certiorari denied.

No. 13–7834. PASTOR *v.* PARTNERSHIP FOR CHILDREN'S RIGHTS. C. A. 2d Cir. Certiorari denied. Reported below: 538 Fed. Appx. 119.

No. 13–7838. VALDEZ *v.* CATE ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7841. TAYLOR *v.* OMEECHEVARRIA. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 249.

No. 13–7842. WILLIAMS *v.* COLEMAN ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 694.

No. 13–7855. BLACK *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–7856. BORJA *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–7857. BELL *v.* BATSON, DEPUTY WARDEN, ET AL. C. A. 5th Cir. Certiorari denied.

No. 13–7858. FOSTER *v.* MICHIGAN. Ct. App. Mich. Certiorari denied.

No. 13–7859. BJORK *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 3d Jud. Dept. Certiorari denied. Reported below: 105 App. Div. 3d 1258, 963 N. Y. S. 2d 472.

No. 13–7861. SEGURA *v.* HOUSTON, DIRECTOR, NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES. C. A. 8th Cir. Certiorari denied.

No. 13–7863. YBARRA *v.* ARKANSAS. Sup. Ct. Ark. Certiorari denied. Reported below: 2013 Ark. 423.

No. 13–7866. PAOLINO *v.* GLUNT, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HOUTZDALE, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7870. PATTERSON *v.* CIRCUIT COURT OF MICHIGAN, KENT COUNTY. Ct. App. Mich. Certiorari denied.

No. 13–7871. COLEMAN *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 716 F. 3d 895.

No. 13–7872. PETTWAY *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 11th Cir. Certiorari denied.

No. 13–7873. SHANNON *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 635.

No. 13–7878. KRIEGER *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 367 N. C. 224, 750 S. E. 2d 834.

No. 13–7879. BRESNAHAN *v.* ROY, COMMISSIONER, MINNESOTA DEPARTMENT OF CORRECTIONS. C. A. 8th Cir. Certiorari denied.

No. 13–7880. LEGGETT *v.* BATES ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 533 Fed. Appx. 57.

No. 13–7882. LAPOINTE *v.* ILLINOIS. App. Ct. Ill., 2d Dist. Certiorari denied. Reported below: 2013 IL App (2d) 100013–U.

No. 13–7884. GIVENS *v.* LAMAS, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ROCKVIEW, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7885. HER *v.* JACQUEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7897. CARTER *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 13–7900. BITON *v.* ABRUTYN ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7903. WARNER *v.* PATTERSON ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 785.

No. 13–7904. WASHINGTON *v.* WISCONSIN. Ct. App. Wis. Certiorari denied. Reported below: 2013 WI App 55, 347 Wis. 2d 550, 830 N. W. 2d 723.

No. 13–7905. DALTON *v.* NEW HAMPSHIRE. Sup. Ct. N. H. Certiorari denied. Reported below: 165 N. H. 263, 75 A. 3d 1140.

No. 13–7907. COOK *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 115 So. 3d 372.

No. 13–7912. FRANK *v.* LOPEZ, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7914. FLORES *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 642.

No. 13–7915. HARRIS *v.* CAIN, WARDEN. C. A. 5th Cir. Certiorari denied.

No. 13–7922. BOZELKO *v.* CONNECTICUT. App. Ct. Conn. Certiorari denied. Reported below: 119 Conn. App. 483, 987 A. 2d 1102.

No. 13–7923. WELCH *v.* COLVIN. C. A. 11th Cir. Certiorari denied.

No. 13–7925. GIDDINGS *v.* KERESTES, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT MAHANOY, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7927. GRESSETT *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 120 So. 3d 571.

No. 13–7935. WHITLEY *v.* STRADA ET AL. C. A. 4th Cir. Certiorari denied.

No. 13–7936. WILSON *v.* WILSON. Sup. Ct. Del. Certiorari denied. Reported below: 74 A. 3d 655.

No. 13–7939. FABRICIO *v.* LAVALLEY, SUPERINTENDENT, CLINTON CORRECTIONAL FACILITY, ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–7940. GEORGE *v.* MABUS, SECRETARY OF THE NAVY. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 369.

No. 13–7941. FREEMAN *v.* WATSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 325.

No. 13–7942. HAMZE *v.* STEELE ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 509 Fed. Appx. 897.

No. 13–7943. HOWARD *v.* LANGSTON ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 427.

No. 13–7944. GOOSBY *v.* TRAMMELL, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 515 Fed. Appx. 776.

No. 13–7947. RICHERT *v.* TEXAS. Ct. App. Tex., 1st Dist. Certiorari denied.

No. 13–7949. NEWKIRK *v.* VIRGINIA. Sup. Ct. Va. Certiorari denied.

No. 13–7950. ARABZADEGAN *v.* TEXAS. Ct. Crim. App. Tex. Certiorari denied.

No. 13–7951. KECKEISSEN *v.* PENNSYLVANIA. C. A. 3d Cir. Certiorari denied.

No. 13–7953. MARTINEZ *v.* ARTUS, SUPERINTENDENT, WENDE CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–7956. MANNING *v.* NORTH CAROLINA. Sup. Ct. N. C. Certiorari denied. Reported below: 367 N. C. 230, 747 S. E. 2d 248.

No. 13–7957. LONG *v.* CITY OF SAN FRANCISCO, CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7958. KING *v.* WHARTON, MAYOR OF THE CITY OF MEMPHIS, TENNESSEE, ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7960. TURNER *v.* SHINSEKI, SECRETARY OF VETERANS AFFAIRS. C. A. Fed. Cir. Certiorari denied. Reported below: 536 Fed. Appx. 1012.

No. 13–7961. WILLIAMS *v.* WASHINGTON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 273.

No. 13–7962. SMITH *v.* PERRY, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7963. HINES *v.* WHITE. C. A. 11th Cir. Certiorari denied.

No. 13–7964. HEARD *v.* ASHBY ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–7965. HERNANDEZ *v.* PARKER, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 401.

No. 13–7968. GLASER *v.* EVERETT ET AL. C. A. 10th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 817.

No. 13–7969. FRANKLIN *v.* WORKERS' COMPENSATION APPEALS BOARD ET AL. Ct. App. Cal., 2d App. Dist., Div. 3. Certiorari denied.

No. 13–7970. HILL *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION. C. A. 8th Cir. Certiorari denied.

No. 13–7971. FOSTER *v.* ROMANOWSKI, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–7972. HOWARD *v.* CARTLEDGE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 503 Fed. Appx. 227.

No. 13–7973. GONZALEZ *v.* MARTEL, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–7974. GOODMAN *v.* JOHNSON ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 524 Fed. Appx. 887.

No. 13–7975. HAWKINS *v.* DEBOO, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 511 Fed. Appx. 261.

No. 13–7976. GREEN *v.* WOLFE ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–7977. HARPER *v.* GUERNSEY COUNTY SHERIFF'S DEPARTMENT ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7978. IBRAHIM *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 529 Fed. Appx. 59.

No. 13–7983. THRASHER *v.* MISSOURI. C. A. 8th Cir. Certiorari denied.

No. 13–7984. YAACOV *v.* COLLINS ET AL. C. A. 6th Cir. Certiorari denied.

No. 13–7989. RUBALCAVA *v.* FELKER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 683.

No. 13–7992. JONES *v.* UNIVERSITY OF ROCHESTER ET AL. C. A. 2d Cir. Certiorari denied.

No. 13–7993. KING *v.* FLORIDA. Sup. Ct. Fla. Certiorari denied. Reported below: 130 So. 3d 676.

No. 13–7994. KLEIM *v.* SUPERIOR COURT OF CALIFORNIA, FRESNO COUNTY, ET AL. Ct. App. Cal., 5th App. Dist. Certiorari denied.

No. 13–8003. ALVARADO *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2012 IL App (1st) 103784–U.

No. 13–8006. WASHINGTON *v.* BERGHUIS, WARDEN, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–8009. PHILLIPS *v.* COLORADO. Ct. App. Colo. Certiorari denied. Reported below: 315 P. 3d 136.

No. 13–8010. P. A. *v.* CALIFORNIA. Ct. App. Cal., 1st App. Dist., Div. 5. Certiorari denied.

No. 13–8011. WHITE *v.* NATIONAL CHURCH RESIDENCE ET AL. Sup. Ct. App. W. Va. Certiorari denied.

No. 13–8014. RENDELMAN *v.* WAMPLER ET AL. C. A. 7th Cir. Certiorari denied.

No. 13–8016. RODRIGUEZ *v.* WELCH, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–8019. GIST *v.* WENEROWICZ, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT GRATERFORD, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–8020. HOWARD *v.* TERRY ET AL. C. A. 7th Cir. Certiorari denied. Reported below: 527 Fed. Appx. 507.

No. 13–8023. SHAFFORD *v.* CHANDLER, WARDEN. C. A. 7th Cir. Certiorari denied.

No. 13–8033. MATTHEWS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 320.

No. 13–8039. CLARK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 556.

No. 13–8040. CARTHORNE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 726 F. 3d 503.

No. 13–8043. POWELL *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 732 F. 3d 361.

No. 13–8044. MATTHEWS *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 532 Fed. Appx. 211.

No. 13–8046. PENDLETON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8047. SOUTHERLAND *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 407.

No. 13–8048. OLIVAS-CASTANEDA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 530 Fed. Appx. 791.

No. 13–8049. GOMEZ MELENDEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 375.

No. 13–8052. JACKSON *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 380.

No. 13–8053. PRATT *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 728 F. 3d 463.

No. 13–8056. BARNETT *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–8057. ARNOLD *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–8059. SADLER, AKA BARBER, AKA WATTS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 344 Fed. Appx. 861.

No. 13–8060. WASHINGTON *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 810.

No. 13–8061. DAMON *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 732 F. 3d 1.

No. 13–8062. MEREDITH *v.* WASHINGTON. Sup. Ct. Wash. Certiorari denied. Reported below: 178 Wash. 2d 180, 306 P. 3d 942.

No. 13–8063. MILLER *v.* NEW JERSEY. Sup. Ct. N. J. Certiorari denied. Reported below: 216 N. J. 40, 76 A. 3d 1250.

No. 13–8064. OKOYE *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 731 F. 3d 46.

No. 13–8066. RODRIGUEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 731 F. 3d 20.

No. 13–8069. ABDILLAHI *v.* MINNESOTA. Ct. App. Minn. Certiorari denied.

No. 13–8070. AYIKA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 344.

No. 13–8071. SEDANO-CHAVEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 548 Fed. Appx. 448.

No. 13–8073. JONES *v.* LESTER, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–8074. KORBE *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–8075. LEWIS *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 732 F. 3d 6.

No. 13–8078. MARTINEZ-BARRERA *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 266.

No. 13–8079. Cross *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 762.

No. 13–8080. Antonio Castro *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 736 F. 3d 1308.

No. 13–8081. Thornton *v.* Clarke, Director, Virginia Department of Corrections. C. A. 4th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 343.

No. 13–8082. Abrone *v.* Franke, Superintendent, Two Rivers Correctional Institution. C. A. 9th Cir. Certiorari denied.

No. 13–8083. Dumas *v.* Massachusetts. App. Ct. Mass. Certiorari denied. Reported below: 83 Mass. App. 536, 986 N. E. 2d 878.

No. 13–8084. Diaz *v.* Montgomery, Acting Warden. C. A. 9th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 782.

No. 13–8085. Butsch *v.* Obenland, Superintendent, Clallam Bay Corrections Center. C. A. 9th Cir. Certiorari denied.

No. 13–8086. Scott *v.* United States. C. A. 8th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 720.

No. 13–8088. Lopapa *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 537 Fed. Appx. 108.

No. 13–8089. Knowles *v.* United States. C. A. 11th Cir. Certiorari denied.

No. 13–8090. Smith *v.* Virginia. C. A. 4th Cir. Certiorari denied. Reported below: 586 Fed. Appx. 622.

No. 13–8091. Shirley *v.* White, Warden. C. A. 6th Cir. Certiorari denied.

No. 13–8092. Sechler *v.* United States. C. A. 3d Cir. Certiorari denied. Reported below: 535 Fed. Appx. 150.

No. 13–8093. Mason *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 529 Fed. Appx. 842.

No. 13–8098. LEE *v.* LORANTH. C. A. 4th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 220.

No. 13–8099. ROBLES *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 713 F. 3d 985.

No. 13–8102. BROECKER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–8103. REQUEJO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 474.

No. 13–8104. ALVAREZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 731 F. 3d 1101.

No. 13–8105. BECK *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–8106. ELLIOTT *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 124 So. 3d 924.

No. 13–8108. RAMON OCHOA *v.* RUBIN, AKA RUBIN OCHOA. Super. Ct. Pa. Certiorari denied. Reported below: 75 A. 3d 540.

No. 13–8110. MYERS *v.* PHILLIPS ET AL. Ct. App. Ind. Certiorari denied. Reported below: 982 N. E. 2d 29.

No. 13–8113. PARKER *v.* UNITED STATES; and
No. 13–8171. LAWRENCE *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 F. 3d 386.

No. 13–8117. KOHRING *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–8118. MATHIS *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8119. OLIVER *v.* CALIFORNIA. Sup. Ct. Cal. Certiorari denied.

No. 13–8121. RASHID, AKA BUCHANAN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 305.

No. 13–8122. PARKER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 244.

No. 13–8130. CASIMIRO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 752.

No. 13–8132. THOMAS *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 556.

No. 13–8133. TILLMAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 844.

No. 13–8134. WILLIAMS *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 720 F. 3d 674.

No. 13–8140. SMITH *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 306.

No. 13–8141. BROWN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 881.

No. 13–8143. BUTLER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 521 Fed. Appx. 379.

No. 13–8145. JOHNSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 592.

No. 13–8146. LEWIS *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 512.

No. 13–8149. MACK *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 729 F. 3d 594.

No. 13–8151. TURNER *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 122 So. 3d 872.

No. 13–8152. VAN *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 592.

No. 13–8156. DALE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 880.

No. 13–8157. TORRES-LEON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 550 Fed. Appx. 480.

No. 13–8160. ACEVEDO RANERO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–8162. SPRAGUE, INDIVIDUALLY AND AS NEXT FRIEND OF G. S., A MINOR *v.* TEXAS DEPARTMENT OF FAMILY AND PRO-

TECTIVE SERVICES ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 547 Fed. Appx. 507.

No. 13–8163. SHOTTS *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 724 F. 3d 364.

No. 13–8164. STEWART *v.* MARTIN, WARDEN. C. A. 5th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 444.

No. 13–8167. MALONE *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 196.

No. 13–8169. KENDRICK *v.* UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK. C. A. 2d Cir. Certiorari denied.

No. 13–8174. MOORE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 541 Fed. Appx. 37.

No. 13–8175. DOHAN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8176. MITAN, AKA HILL *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 178.

No. 13–8177. LUNA-MAGDALENO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 792.

No. 13–8178. KELLY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–8179. LOPEZ-CUEVAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–8187. BRANIGH *v.* IDAHO. Ct. App. Idaho. Certiorari denied. Reported below: 155 Idaho 404, 313 P. 3d 732.

No. 13–8188. OGUNFUNWA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 537 Fed. Appx. 126.

No. 13–8189. RAINEY *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 836.

No. 13–8190. NORVELL *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 729 F. 3d 788.

No. 13–8191. CAMPBELL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–8193. RODRIGUEZ *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–8194. REVELS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 621.

No. 13–8196. SAMAYOA *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 126 So. 3d 1063.

No. 13–8199. JOHNSON *v.* FEATHER, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–8201. SWISHER *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. C. A. 11th Cir. Certiorari denied.

No. 13–8205. BROUGHTON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 886.

No. 13–8206. NORWOOD *v.* VANCE ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 517 Fed. Appx. 557.

No. 13–8218. GRAYSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 731 F. 3d 605.

No. 13–8219. RODGERS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 273.

No. 13–8220. SPRINGSTON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 576.

No. 13–8225. HARPER ET AL. *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 329.

No. 13–8231. REED *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 932.

No. 13–8232. GARZA *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 727 F. 3d 436.

No. 13–8233. GUEVARA *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 731 F. 3d 824.

No. 13–8236. GRZYMINSKI *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 543 Fed. Appx. 273.

No. 13–8237. HARRIS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 75 A. 3d 914.

No. 13–8238. AUSTIN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 927.

No. 13–8241. DIAZ-CORREA *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 726 F. 3d 17.

No. 13–8242. JACKSON *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 728 F. 3d 367.

No. 13–8244. HUDSON *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 550 Fed. Appx. 793.

No. 13–8246. PRESCOTT *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 931.

No. 13–8248. MOORE *v.* T-MOBILE USA INC. C. A. 2d Cir. Certiorari denied. Reported below: 548 Fed. Appx. 686.

No. 13–8250. COX *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 908.

No. 13–8255. HALL *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 586.

No. 13–8257. MORALES-BELTRAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 598.

No. 13–8258. PENA *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 661.

No. 13–8259. OATES *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8260. WALTERS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 732 F. 3d 489.

No. 13–8263. HERNANDEZ GUZMAN *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 702.

No. 13–8264. LUCAS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 283.

No. 13–8265. STEPHENS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 325.

No. 13–8267. SEGURA-GOMEZ *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied.

No. 13–8268. SCHUERER ET UX. *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 525 Fed. Appx. 902.

No. 13–8269. BARNES *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 491.

No. 13–8271. GOODWIN *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 204.

No. 13–8276. MARTINEZ-VELEZ *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied.

No. 13–8279. TESSENEER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 264.

No. 13–8280. VANHOLTEN *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 776.

No. 13–8283. MORRIS *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 521.

No. 13–8287. ESCALERA *v.* UNITED STATES; and
No. 13–8288. ESCALERA *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 27.

No. 13–8289. DAILY *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 119 So. 3d 1250.

No. 13–8291. REDD *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 183.

No. 13–8292. SEIBLES *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 254.

No. 13–8295. JERNIGAN *v.* BAKER, WARDEN. C. A. 9th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 669.

No. 13–8299. PEEL *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied.

No. 13–8302. CORREA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied.

No. 13–8304. VASQUEZ *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 760.

No. 13–8305. UGOCHUKWU *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 674.

No. 13–8311. ODUU *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 637.

No. 13–8313. CARRINGTON *v.* DISTRICT OF COLUMBIA. Ct. App. D. C. Certiorari denied. Reported below: 77 A. 3d 999.

No. 13–8320. MATTOX *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied.

No. 13–8321. MABRY *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 728 F. 3d 1163.

No. 13–8323. GALLARDO-BEJARANO *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 342.

No. 13–8327. GONZALEZ-RIVERA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 535 Fed. Appx. 95.

No. 13–8330. GUNN *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied.

No. 13–8334. PARK *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 686.

No. 13–8335. ORTIZ *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 536 Fed. Appx. 127.

No. 13–8338. BLOOMGARDEN *v.* BUREAU OF PRISONS ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 723.

No. 13–8342. WALKER *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 720 F. 3d 705.

No. 13–8344. TALAVERA-RUIZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 621.

No. 13–8345. THOMAS *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied.

No. 13–8347. TINSLEY *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 545 Fed. Appx. 190.

No. 13–8348. WILLIAMS *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 77 A. 3d 425.

No. 13–8349. TURRENTINE *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 714.

No. 13–8355. TOKLEY *v.* SANTIAGO, ADMINISTRATOR, NEW JERSEY STATE PRISON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 541 Fed. Appx. 168.

No. 13–8356. ORTIZ LOPEZ *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 718.

No. 13–8357. LOPEZ-GONZALO *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 773.

No. 13–8360. PORTILLO-MERINO *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 283.

No. 13–8361. RAND *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 571.

No. 13–8362. RICHARDSON *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 535 Fed. Appx. 517.

No. 13–8367. KELLER *v.* FLORIDA. Dist. Ct. App. Fla., 5th Dist. Certiorari denied. Reported below: 118 So. 3d 814.

No. 13–8368. ALI ET AL. *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 735 F. 3d 176.

No. 13–8376. BROOKS *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 539 Fed. Appx. 169.

No. 13–8378. JOINER *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 727 F. 3d 601.

No. 13–8379. TAYLOR *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied.

No. 13–8380. MORALES-MARTINEZ *v.* UNITED STATES (Reported below: 543 Fed. Appx. 442); and ATRACH *v.* UNITED STATES (548 Fed. Appx. 293). C. A. 5th Cir. Certiorari denied.

No. 13–8381. JORDAN *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. Reported below: 534 Fed. Appx. 580.

No. 13–8382. LOOMAN *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 419.

No. 13–8383. MOORE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 733 F. 3d 171.

No. 13–8386. CISNEROS LEDESMA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 836.

No. 13–8387. BRACEY *v.* UNITED STATES. Ct. App. D. C. Certiorari denied.

No. 13–8388. LOPEZ *v.* UNITED STATES. Ct. App. D. C. Certiorari denied. Reported below: 77 A. 3d 412.

No. 13–8476. OWENS *v.* COLORADO. Sup. Ct. Colo. Certiorari denied.

No. 13–389. PENNSYLVANIA *v.* CHAMPNEY. Sup. Ct. Pa. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 619 Pa. 627, 65 A. 3d 386.

No. 13–413. MICHIGAN *v.* CLARY. Sup. Ct. Mich. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 494 Mich. 260, 833 N. W. 2d 308.

No. 13–524. MASTERY CHARTER SCHOOL *v.* R. B., A MINOR AND THROUGH HER PARENT. C. A. 3d Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 532 Fed. Appx. 136.

No. 13–593. MINNESOTA *v.* SAGO. Ct. App. Minn. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied.

No. 13–655. ROBERTSON *v.* GMAC MORTGAGE, LLC, ET AL. C. A. 9th Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–685. FEDERAL TREASURY ENTERPRISE SOJUZPLODOIMPORT ET AL. *v.* SPI SPIRITS LTD. ET AL. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition. Reported below: 726 F. 3d 62.

No. 13–687. CACIOPPO *v.* TOWN OF VAIL, COLORADO. C. A. 10th Cir. Motion of respondent for leave to file brief in opposition under seal with redacted copies for the public record granted. Certiorari denied. Reported below: 528 Fed. Appx. 929.

No. 13–737. AUBUCHON *v.* STATE BAR OF ARIZONA. Sup. Ct. Ariz. Motion of Susan Rose Smith-Schildmeyer et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 233 Ariz. 62, 309 P. 3d 886.

No. 13–781. EVERTSON *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–7708. DANIEL *v.* LOWE'S HOME CENTERS, INC. C. A. 11th Cir. Certiorari denied. JUSTICE BREYER took no part in the consideration or decision of this petition.

No. 13–8067. KHALIL *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–8127. PAYNE *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–8166. MCKAY *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

No. 13–8282. SUTTON *v.* UNITED STATES. C. A. 9th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 530 Fed. Appx. 668.

Rehearing Denied

No. 12–10558. PEREZ-HERNANDEZ *v.* UNITED STATES, *ante*, p. 855;

No. 13–360. SINGLETON *v.* STACK ET AL., *ante*, p. 1072;

No. 13–425. POTTS *v.* HOWARD UNIVERSITY HOSPITAL ET AL., *ante*, p. 1073;

No. 13–503. PENNINGTON *v.* UNIVERSITY OF ARKANSAS BOARD OF TRUSTEES ET AL., *ante*, p. 1095;

No. 13–566. KANOFSKY *v.* COMMISSIONER OF INTERNAL REVENUE, *ante*, p. 1096;

No. 13–5040. BILYEU *v.* METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, ET AL., *ante*, p. 1073;

No. 13–5287. HALL *v.* SCUTT, WARDEN, *ante*, p. 907;

No. 13–5322. BEACH-MATHURA *v.* MIAMI-DADE COUNTY PUBLIC SCHOOLS ET AL., *ante*, p. 1074;

No. 13–5807. GREELEY *v.* HARLOW, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT ALBION, ET AL., *ante*, p. 975;

No. 13–6110. WILEY *v.* FIELDS ET AL., *ante*, p. 995;

No. 13–6211. PAGONIS *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION, *ante*, p. 1011;

No. 13–6292. WHITWORTH *v.* LOWERY ET AL., *ante*, p. 1026;

No. 13–6302. SCHENCK *v.* SUPERIOR COURT OF CALIFORNIA, MARIN COUNTY, ET AL., *ante*, p. 1026;

No. 13–6392. RONDENO *v.* LAW OFFICE OF WILLIAM S. VINCENT, JR., ET AL., *ante*, p. 1074;

No. 13–6450. ORTIZ-SALGADO *v.* POLK, WARDEN, ET AL., *ante*, p. 1013;

No. 13–6476. DAVIS *v.* CITY OF ST. LOUIS, MISSOURI, ET AL., *ante*, p. 1076;

No. 13–6479. FLUKER *v.* REYNOLD'S AMERICAN INC., *ante*, p. 1076;

No. 13–6480. FLUKER *v.* GENERAL MOTORS, *ante*, p. 1076;

No. 13–6498. CARTER *v.* COLVIN, ACTING COMMISSIONER OF SOCIAL SECURITY, *ante*, p. 1029;

No. 13–6620. AGUIRRE *v.* LEWIS, WARDEN, ET AL., *ante*, p. 1079;

No. 13–6677. NIFAS *v.* COLEMAN ET AL., *ante*, p. 1097;

No. 13–6719. LUONGO *v.* MASSACHUSETTS DEPARTMENT OF DEVELOPMENTAL SERVICES ET AL., *ante*, p. 1098;

No. 13–6729. JINKS *v.* MATTHEWS ET AL., *ante*, p. 1098;

No. 13–6736. ROBERTS *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, *ante*, p. 1098;

No. 13–6758. MINOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, *ante*, p. 1099;

No. 13–6802. VIOLA *v.* ARIZONA, *ante*, p. 1111;

No. 13–6819. CARRANZA ET UX. *v.* UNITED STATES, *ante*, p. 1080;

No. 13–6848. BEDFORD *v.* PORT OF HOUSTON AUTHORITY ET AL., *ante*, p. 1100;

No. 13–6859. BONDS *v.* WILSON, SUPERINTENDENT, INDIANA STATE PRISON, *ante*, p. 1112;

No. 13–6924. MAJOR *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS, *ante*, p. 1100;

No. 13–6931. IN RE JACKSON, *ante*, p. 1009;

No. 13–6982. WILSON *v.* MISSISSIPPI, *ante*, p. 1100;

No. 13–7056. BAKER *v.* WERLINGER, WARDEN, *ante*, p. 1082;

No. 13–7081. BAMDAD *v.* UNITED STATES, *ante*, p. 1083;

No. 13–7092. STRINGER *v.* UNITED STATES, *ante*, p. 1083;

No. 13–7139. PARKS *v.* UNITED STATES, *ante*, p. 1084;

No. 13–7214. JACQUES *v.* UNITED STATES, *ante*, p. 1101;

No. 13–7324. DAVIS *v.* WILSON ET AL., *ante*, p. 1143;

No. 13–7352. TASCIYAN *v.* MEDICAL NUMERICS ET AL., *ante*, p. 1144;

No. 13–7471. HOLLEY *v.* UNITED STATES, *ante*, p. 1148; and

No. 13–7498. JACKSON *v.* HARTFORD LIFE & ACCIDENT INSURANCE CO., *ante*, p. 1149. Petitions for rehearing denied.

No. 12–1456. JONES *v.* DEPARTMENT OF THE TREASURY ET AL., *ante*, p. 941. Petition for rehearing denied. JUSTICE ALITO took no part in the consideration or decision of this petition.

No. 13–5696. CORBIN *v.* JOHNSON, JUDGE, ET AL., *ante*, p. 958. Motion for leave to file petition for rehearing denied.

No. 13–7627. KISSI *v.* UNITED STATES (two judgments), *ante*, p. 1158. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

FEBRUARY 25, 2014

Miscellaneous Order

No. 13A857. TAYLOR *v.* BOWERSOX, WARDEN. Application for certificate of appealability, presented to JUSTICE ALITO, and by him referred to the Court, denied.

Certiorari Denied

No. 13–8824 (13A862). TAYLOR *v.* BOWERSOX, WARDEN. C. A. 8th 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. 13–8854 (13A865). TAYLOR *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th 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. 13–8855 (13A866). TAYLOR *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th 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. 13–8856 (13A867). TAYLOR *v.* LOMBARDI, DIRECTOR, MISSOURI DEPARTMENT OF CORRECTIONS, ET AL. C. A. 8th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

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

For reasons well stated by Judge Bye in his statement calling for Eighth Circuit rehearing en banc, I would grant the stay and consider the petition for certiorari in the ordinary course.

No. 13–8857 (13A864). TAYLOR *v.* BOWERSOX, WARDEN, ET AL. C. A. 8th Cir. Application for stay of execution of sentence of death, presented to JUSTICE ALITO, and by him referred to the Court, denied. Certiorari denied.

FEBRUARY 26, 2014

Miscellaneous Order

No. 13–8879 (13A871). IN RE HOWELL. Application for stay of execution of sentence of death, presented to JUSTICE THOMAS, and by him referred to the Court, denied. Petition for writ of habeas corpus denied.

Certiorari Denied

No. 13–1021 (13A869). HOWELL *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: 133 So. 3d 511.

No. 13–8530 (13A824). HOWELL *v.* CREWS, SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS. 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: 730 F. 3d 1257.

MARCH 3, 2014

Certiorari Dismissed

No. 13–7980. LAMBROS *v.* MAYE, WARDEN. 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: 533 Fed. Appx. 855.

No. 13–8197. SOLAN *v.* ZICKEFOOSE. 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. Reported below: 530 Fed. Appx. 109.

Miscellaneous Orders

No. 13M86. JEFFERSON *v.* UNITED STATES. Motion for leave to file petition for writ of certiorari with supplemental appendix under seal granted.

No. 13M87. MOORE *v.* UNITED STATES POSTAL SERVICE 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. JUSTICE KAGAN took no part in the consideration or decision of this motion.

No. 142, Orig. FLORIDA *v.* GEORGIA. The Solicitor General is invited to file a brief in this case expressing the views of the United States.

No. 13–461. AMERICAN BROADCASTING COS., INC., ET AL. *v.* AEREO, INC., FKA BAMBOOM LABS, INC. C. A. 2d Cir. [Certiorari granted, *ante*, p. 1118.] Motion of FilmOn X, LLC, et al. for leave to intervene denied. JUSTICE ALITO took no part in the consideration or decision of this motion.

No. 13–6979. COBBLE *v.* OUBRE, WARDEN. C. A. 11th Cir.; and

No. 13–6980. COBBLE *v.* COBB COUNTY POLICE DEPARTMENT. C. A. 11th Cir. Motions of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1119] denied.

No. 13–7600. PAULL *v.* UNITED STATES. C. A. 6th Cir.; and
No. 13–7623. PAULL *v.* UNITED STATES. C. A. 6th Cir. Motions of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* [*ante*, p. 1123] denied. JUSTICE KAGAN took no part in the consideration or decision of these motions.

No. 13–8341. TASSONE *v.* FOXWOODS RESORT CASINO ET AL. C. A. 2d Cir.; and
No. 13–8446. ROSIOREANU *v.* CITY OF NEW YORK, NEW YORK. C. A. 2d Cir. Motions of petitioners for leave to proceed *in forma pauperis* denied. Petitioners are allowed until March 24, 2014, 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. 13–7998. IN RE KOKINDA; and
No. 13–8050. IN RE LAMB. Petitions for writs of mandamus denied.

Certiorari Granted

No. 13–433. INTEGRITY STAFFING SOLUTIONS, INC. *v.* BUSK ET AL. C. A. 9th Cir. Certiorari granted. Reported below: 713 F. 3d 525.

No. 13–435. OMNICARE, INC., ET AL. *v.* LABORERS DISTRICT COUNCIL CONSTRUCTION INDUSTRY PENSION FUND ET AL. C. A. 6th Cir. Certiorari granted. Reported below: 719 F. 3d 498.

No. 13–517. WARGER *v.* SHAUERS. C. A. 8th Cir. Certiorari granted. Reported below: 721 F. 3d 606.

No. 13–534. NORTH CAROLINA STATE BOARD OF DENTAL EXAMINERS *v.* FEDERAL TRADE COMMISSION. C. A. 4th Cir. Certiorari granted. Reported below: 717 F. 3d 359.

No. 13–6827. HOLT, AKA MUHAMMAD *v.* HOBBS, DIRECTOR, ARKANSAS DEPARTMENT OF CORRECTION, ET AL. C. A. 8th Cir. Motion of petitioner for leave to proceed *in forma pauperis* granted. Certiorari granted limited to the following question: "Whether the Arkansas Department of Correction's grooming pol-

icy violates the Religious Land Use and Institutionalized Persons Act of 2000, 42 U. S. C. § 2000cc *et seq.*, to the extent that it prohibits petitioner from growing a one-half-inch beard in accordance with his religious beliefs." Reported below: 509 Fed. Appx. 561.

Certiorari Denied

No. 12–8177. RAMBO *v.* ESTATE OF RAMBO, DECEASED. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–379. RI, INC., ET AL. *v.* GARDNER, NEW YORK STATE COMMISSIONER OF LABOR, ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 523 Fed. Appx. 40.

No. 13–392. TERRY *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 707 F. 3d 607.

No. 13–516. CITY OF FARMERS BRANCH, TEXAS *v.* VILLAS AT PARKSIDE PARTNERS ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 726 F. 3d 524.

No. 13–531. CITY OF HAZLETON, PENNSYLVANIA *v.* LOZANO ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 724 F. 3d 297.

No. 13–767. SELIG *v.* SOUTH WHITEHALL TOWNSHIP. Commw. Ct. Pa. Certiorari denied.

No. 13–770. TUSTIN UNIFIED SCHOOL DISTRICT *v.* K. M., A MINOR, BY AND THROUGH HER GUARDIAN AD LITEM, BRIGHT; and

No. 13–777. POWAY UNIFIED SCHOOL DISTRICT *v.* D. H., A MINOR, BY AND THROUGH HER GUARDIAN AD LITEM, K. H. C. A. 9th Cir. Certiorari denied. Reported below: 725 F. 3d 1088.

No. 13–776. LEDERMAN ET AL. *v.* CITY OF NEW YORK DEPARTMENT OF PARKS AND RECREATION ET AL. C. A. 2d Cir. Certiorari denied. Reported below: 731 F. 3d 199.

No. 13–778. CABACOFF *v.* WELLS FARGO BANK, N. A., ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–797. PETERSON, AS TRUSTEE FOR THE ESTATES OF LANCELOT INVESTORS FUND, LTD., ET AL. *v.* WINSTON &

STRAWN LLP. C. A. 7th Cir. Certiorari denied. Reported below: 729 F. 3d 750.

No. 13–800. PATEL *v.* GEORGIA DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES. Ct. App. Ga. Certiorari denied. Reported below: 323 Ga. App. XXV.

No. 13–802. CENTER FOR CONSTITUTIONAL RIGHTS ET AL. *v.* OBAMA, PRESIDENT OF THE UNITED STATES, ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 522 Fed. Appx. 383.

No. 13–812. JAFFE *v.* PREGERSON, JUDGE, UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–818. BEVERLY HILLS HOTEL AND BUNGALOWS EMPLOYEE BENEFIT TRUST EMPLOYEE WELFARE PLAN *v.* MARTINEZ. C. A. 9th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 778.

No. 13–823. GARCIA *v.* FREEMAN ET AL. (Reported below: 542 Fed. Appx. 354); and MARTINEZ DE ESPARZA *v.* KERRY, SECRETARY OF STATE (548 Fed. Appx. 216). C. A. 5th Cir. Certiorari denied.

No. 13–825. ZOPATTI *v.* RANCHO DORADO HOMEOWNERS ASSN. ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 777.

No. 13–833. LORTON *v.* TENTH DISTRICT COURT OF APPEALS OF OHIO ET AL. Sup. Ct. Ohio. Certiorari denied. Reported below: 136 Ohio St. 3d 1468, 2013-Ohio-3790, 993 N. E. 2d 774.

No. 13–859. BERG ET AL. *v.* SEBELIUS, SECRETARY OF HEALTH AND HUMAN SERVICES. C. A. 9th Cir. Certiorari denied. Reported below: 718 F. 3d 1110.

No. 13–866. PHILLIPS *v.* BESTWAY RENTAL, INC. C. A. 5th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 410.

No. 13–881. LINDSEY *v.* HAWAII. Int. Ct. App. Haw. Certiorari denied. Reported below: 129 Haw. 427, 301 P. 3d 1268.

No. 13–882. MATSA *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 520.

No. 13–7103. CIAVARELLA *v.* UNITED STATES. C. A. 3d Cir. Certiorari denied. Reported below: 716 F. 3d 705.

No. 13–7273. HESTER *v.* INDIANA STATE DEPARTMENT OF HEALTH. C. A. 7th Cir. Certiorari denied. Reported below: 726 F. 3d 942.

No. 13–7556. KING *v.* UNITED STATES. C. A. 9th Cir. Certiorari denied. Reported below: 736 F. 3d 805.

No. 13–7952. KORTE *v.* MIDLAND FUNDING, LLC, ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7991. LUCIANO-HERRERA *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 82 A. 3d 465.

No. 13–7995. LEE *v.* WOLFSON ET AL. C. A. 9th Cir. Certiorari denied.

No. 13–7996. JONES *v.* STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION. C. A. 5th Cir. Certiorari denied. Reported below: 541 Fed. Appx. 499.

No. 13–7997. JOHNSON *v.* MONDAY, WARDEN. C. A. 10th Cir. Certiorari denied. Reported below: 532 Fed. Appx. 811.

No. 13–7999. MATTHEWS *v.* NEW YORK. App. Div., Sup. Ct. N. Y., 2d Jud. Dept. Certiorari denied. Reported below: 102 App. Div. 3d 709, 956 N. Y. S. 2d 903.

No. 13–8002. BRANDON *v.* ILLINOIS. App. Ct. Ill., 1st Dist. Certiorari denied. Reported below: 2013 IL App (1st) 110652–U.

No. 13–8005. SHUPER *v.* CHANDLER ET AL. C. A. 1st Cir. Certiorari denied.

No. 13–8024. WILLIAMS *v.* CLARKE, DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS. C. A. 4th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 300.

No. 13–8025. HUANG *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–8026. GARCON *v.* FLORIDA. Dist. Ct. App. Fla., 4th Dist. Certiorari denied.

No. 13–8028. WALLACE *v.* LAGANA, ADMINISTRATOR, NORTHERN STATE PRISON. C. A. 3d Cir. Certiorari denied.

No. 13–8029. JOHNSON *v.* MISSOURI. Sup. Ct. Mo. Certiorari denied. Reported below: 406 S. W. 3d 892.

No. 13–8041. BROWN *v.* FOULK, ACTING WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–8051. JOHNSON *v.* CARTLEDGE, WARDEN, ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 540 Fed. Appx. 190.

No. 13–8055. JUSTIN B., A JUVENILE *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied. Reported below: 405 S. C. 391, 747 S. E. 2d 774.

No. 13–8058. STEWART *v.* TEXAS. Ct. App. Tex., 13th Dist. Certiorari denied.

No. 13–8065. THOMAS *v.* CITY OF HOUSTON, TEXAS, ET AL. C. A. 5th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 593.

No. 13–8068. BRUMMETT *v.* VALENZUELA, WARDEN. C. A. 9th Cir. Certiorari denied.

No. 13–8096. LEON *v.* FLORIDA. Dist. Ct. App. Fla., 2d Dist. Certiorari denied. Reported below: 125 So. 3d 158.

No. 13–8100. ASSA'AD-FALTAS *v.* SOUTH CAROLINA ET AL. C. A. 4th Cir. Certiorari denied. Reported below: 516 Fed. Appx. 261.

No. 13–8109. PARKS *v.* MARYLAND. Ct. Sp. App. Md. Certiorari denied. Reported below: 212 Md. App. 784.

No. 13–8116. LEE *v.* BEARD, SECRETARY, CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION. C. A. 9th Cir. Certiorari denied.

No. 13–8131. WILLIAMS *v.* REISER, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–8137. WRIGHT *v.* BUSH, FORMER PRESIDENT OF THE UNITED STATES, ET AL. C. A. 8th Cir. Certiorari denied.

No. 13–8158. WOODS *v.* REGENTS OF THE UNIVERSITY OF CALIFORNIA. Ct. App. Cal., 2d App. Dist., Div. 7. Certiorari denied.

No. 13–8184. YOUNG *v.* BICKELL, SUPERINTENDENT, STATE CORRECTIONAL INSTITUTION AT HUNTINGDON, ET AL. C. A. 3d Cir. Certiorari denied. Reported below: 525 Fed. Appx. 153.

No. 13–8195. DOTSON *v.* FLORIDA. Dist. Ct. App. Fla., 1st Dist. Certiorari denied. Reported below: 121 So. 3d 1040.

No. 13–8198. LEE *v.* INDIANA. Ct. App. Ind. Certiorari denied. Reported below: 989 N. E. 2d 842.

No. 13–8200. COLLINS *v.* WASHINGTON ET AL. C. A. 9th Cir. Certiorari denied. Reported below: 520 Fed. Appx. 577.

No. 13–8207. PETERSON *v.* APPLE INC. C. A. 2d Cir. Certiorari denied.

No. 13–8209. DELEE *v.* GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY. C. A. 2d Cir. Certiorari denied.

No. 13–8216. GRAY *v.* CALIFORNIA. Ct. App. Cal., 4th App. Dist., Div. 3. Certiorari denied.

No. 13–8240. DORADO *v.* TENNESSEE. Ct. Crim. App. Tenn. Certiorari denied.

No. 13–8251. MITCHELL *v.* NEW JERSEY. Super. Ct. N. J., App. Div. Certiorari denied.

No. 13–8275. LENOIR *v.* MORGAN, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–8317. WESTBROOK *v.* KING, SUPERINTENDENT, SOUTH MISSISSIPPI CORRECTIONAL INSTITUTION. C. A. 5th Cir. Certiorari denied.

No. 13–8339. KELLY *v.* RAPELJE, WARDEN. C. A. 6th Cir. Certiorari denied.

No. 13–8359. PARRIS *v.* MITCHEM, WARDEN, ET AL. C. A. 11th Cir. Certiorari denied. Reported below: 542 Fed. Appx. 850.

No. 13–8365. SIMS *v.* SOUTH CAROLINA. Sup. Ct. S. C. Certiorari denied.

No. 13–8370. YERESSIAN *v.* DEPARTMENT OF THE ARMY. C. A. Fed. Cir. Certiorari denied. Reported below: 534 Fed. Appx. 963.

No. 13–8408. BRICENO *v.* UNITED STATES. C. A. 1st Cir. Certiorari denied. Reported below: 550 Fed. Appx. 14.

No. 13–8409. JONES *v.* PENNSYLVANIA. Super. Ct. Pa. Certiorari denied. Reported below: 75 A. 3d 563.

No. 13–8410. VENTURA *v.* UNITED STATES (Reported below: 543 Fed. Appx. 388); NUNEZ-SALOMON *v.* UNITED STATES (543 Fed. Appx. 400); MARTINEZ-BECERRA *v.* UNITED STATES (548 Fed. Appx. 316); RIASCOS-CARDENAS, AKA SANTIAGO-RESTO, AKA LUIS SANTIAGO *v.* UNITED STATES (548 Fed. Appx. 313); and DE JESUS CEDILLO, AKA COSTILLOS, AKA CEDILLO, AKA ALVARADO, AKA MANUEL GONZALEZ *v.* UNITED STATES (548 Fed. Appx. 306). C. A. 5th Cir. Certiorari denied.

No. 13–8413. HUNTER *v.* UNITED STATES. C. A. 5th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 374.

No. 13–8417. ANITA *v.* UNITED STATES. C. A. 10th Cir. Certiorari denied. Reported below: 533 Fed. Appx. 856.

No. 13–8418. BOWSER *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied. Reported below: 537 Fed. Appx. 932.

No. 13–8419. BEVERLY *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. Reported below: 541 Fed. Appx. 42.

No. 13–8426. DYE *v.* UNITED STATES. C. A. 6th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 654.

No. 13–8429. BAXTER *v.* UNITED STATES. C. A. 4th Cir. Certiorari denied. Reported below: 536 Fed. Appx. 382.

No. 13–8431. WHITLEY *v.* WILSON, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 546 Fed. Appx. 324.

No. 13–8436. COCKETT *v.* WILLIS, WARDEN. C. A. 8th Cir. Certiorari denied.

No. 13–8438. DeCarlo *v.* Walton, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–8439. Driessen *v.* Citibank, N. A. C. A. 8th Cir. Certiorari denied.

No. 13–8445. Murphy *v.* Johnson, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–8448. Salinas *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 458.

No. 13–8449. Lorentz *v.* United States. C. A. 5th Cir. Certiorari denied.

No. 13–8450. Livingston *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 725 F. 3d 1141.

No. 13–8454. Gallegos Molina *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 543 Fed. Appx. 480.

No. 13–8457. Anzaldo-Contreras *v.* United States. C. A. 9th Cir. Certiorari denied. Reported below: 548 Fed. Appx. 360.

No. 13–8471. Lao Zhu, aka Yongxie Zhu *v.* United States. C. A. 7th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 715.

No. 13–8475. Posadas *v.* United States. C. A. 5th Cir. Certiorari denied. Reported below: 544 Fed. Appx. 478.

No. 13–8482. Baker *v.* Werlinger, Warden. C. A. 7th Cir. Certiorari denied.

No. 13–8485. Ruiz *v.* Tilton, Warden. C. A. 9th Cir. Certiorari denied.

No. 13–8489. Quattlebaum *v.* United States. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 326.

No. 13–8494. Conner *v.* United States. C. A. 7th Cir. Certiorari denied.

No. 13–8495. Dell *v.* United States. C. A. 11th Cir. Certiorari denied. Reported below: 710 F. 3d 1267.

No. 13–8507. SHEARER *v.* WETZEL, SECRETARY, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, ET AL. C. A. 3d Cir. Certiorari denied.

No. 13–8517. SMITH *v.* UNITED STATES. C. A. 11th Cir. Certiorari denied.

No. 13–8518. RAY *v.* BOULWARE, WARDEN. C. A. 4th Cir. Certiorari denied. Reported below: 538 Fed. Appx. 322.

No. 13–471. ROMEIKE ET AL. *v.* HOLDER, ATTORNEY GENERAL. C. A. 6th Cir. Motion of Alliance Defending Freedom et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 718 F. 3d 528.

No. 13–587. TRAMMELL, WARDEN *v.* WILLIAMS. C. A. 10th Cir. Motion of respondent for leave to proceed *in forma pauperis* granted. Certiorari denied. Reported below: 539 Fed. Appx. 844.

No. 13–648. SUN CAPITAL PARTNERS III, LP, ET AL. *v.* NEW ENGLAND TEAMSTERS & TRUCKING INDUSTRY PENSION FUND. C. A. 1st Cir. Motion of Private Equity Growth Capital Council for leave to file brief as *amicus curiae* granted. Certiorari denied. Reported below: 724 F. 3d 129.

No. 13–652. CASASOLA ET AL. *v.* GREENE. Ct. App. Cal., 2d App. Dist., Div. 5. Motion of American Bankers Association et al. for leave to file brief as *amici curiae* granted. Certiorari denied. Reported below: 216 Cal. App. 4th 454, 156 Cal. Rptr. 3d 901.

No. 13–865. NOVOZYMES A/S ET AL. *v.* DUPONT NUTRITION BIOSCIENCES APS ET AL. C. A. Fed. Cir. Certiorari denied. JUSTICE ALITO took no part in the consideration or decision of this petition. Reported below: 723 F. 3d 1336.

No. 13–909. ZUCKER, AS PLAN ADMINISTRATOR FOR BANKUNITED FINANCIAL CORP. ET AL. *v.* FEDERAL DEPOSIT INSURANCE CORPORATION, IN ITS CAPACITY AS RECEIVER OF BANKUNITED, FSB. C. A. 11th Cir. Motion of petitioner to defer consideration of petition for writ of certiorari denied. Certiorari denied. Reported below: 727 F. 3d 1100.

No. 13–923. THOMPSON *v.* UNITED STATES. C. A. 7th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition. Reported below: 732 F. 3d 826.

No. 13–8392. PAPPAS *v.* UNITED STATES. C. A. 2d Cir. Certiorari denied. JUSTICE SOTOMAYOR took no part in the consideration or decision of this petition.

No. 13–8403. JOHNSON *v.* UNITED STATES. C. A. 8th Cir. Certiorari denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

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No. 13–5604. BULLARD *v.* PENNSYLVANIA BUREAU OF UNEMPLOYMENT AND ALLOWANCES, *ante*, p. 1132;

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No. 13–6702. IN RE TAGLIAFERRI ET AL., *ante*, p. 1124;

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No. 13–7173. ESCOBAR *v.* CHRISMAN, WARDEN, *ante*, p. 1139;

No. 13–7323. OUTTEN *v.* HOWARD UNIVERSITY, DBA WHUR FM RADIO, *ante*, p. 1143;

No. 13–7628. SUNG KUN KIM *v.* HAGEL, SECRETARY OF DEFENSE, *ante*, p. 1153; and

No. 13–7690. ARMSTRONG *v.* UNITED STATES, *ante*, p. 1154. Petitions for rehearing denied.

No. 13–186. COTTERMAN *v.* UNITED STATES, *ante*, p. 1156. Petition for rehearing denied. JUSTICE KAGAN took no part in the consideration or decision of this petition.

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COLLECTIVE BARGAINING AGREEMENTS. See **Appeals; Labor Law.**

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COMPULSORY SELF-INCRIMINATION. See **Constitutional Law,** II.

CONSTITUTIONAL LAW. See also **Qualified Immunity from Suit.**

I. Due Process.

Personal jurisdiction—"Minimal contacts."—Petitioner, a Georgia police officer who searched respondents and seized their cash at a Georgia airport, did not create "minimal contacts" necessary to connect himself to forum State of Nevada, where respondents resided; thus, Federal District Court there lacked personal jurisdiction over him in respondents' damages suit. Walden v. Fiore, p. 277.

II. Privilege Against Self-incrimination.

Lack of requisite mental state defense—Rebuttal evidence—Court-ordered psychiatric examination.—Rule of *Buchanan* v. *Kentucky,* 483 U. S. 402—which provides that where a defense expert testifies that a criminal defendant lacked requisite mental state to commit an offense, prosecution may present psychiatric evidence in rebuttal—permitted prosecution in this case to offer evidence from a court-ordered psychiatric examination not agreed to by defendant. Kansas v. Cheever, p. 87.

III. Right to Counsel.

Ineffective assistance—Mistake of law—Prejudice.—Counsel's mistake of law—unreasonable failure to understand resources that state law made available to petitioner, which caused counsel to employ an expert that he himself deemed inadequate—amounts to deficient performance under *Strickland* v. *Washington*, 466 U. S. 668; state court should consider on

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remand whether counsel's performance was prejudicial. Hinton v. Alabama, p. 263.

IV. Searches and Seizures.

Warrantless consent searches—Jointly occupied premises—Lawful removal of objecting cotenant.—Exception to permissible warrantless consent searches of jointly occupied premises that arises when one of occupants present objects to search, *Georgia* v. *Randolph*, 547 U. S. 103, does not apply where cotenant's consent to search premises was provided well after police had lawfully removed objecting cotenant from premises. Fernandez v. California, p. 292.

CONTRACTORS AND SUBCONTRACTORS. See **Sarbanes-Oxley Act of 2002.**

CONTROLLED SUBSTANCES ACT. See **Criminal Law,** 2, 3.

COURT OF FEDERAL CLAIMS. See **Federal Courts.**

CREDITORS AND DEBTORS. See **Bankruptcy.**

CRIMINAL FORFEITURES. See **Criminal Law,** 3.

CRIMINAL LAW. See also **Constitutional Law,** II, III, IV**; Habeas Corpus.**

1. *"Military installation"—Criminal reentry following ban.*—For purposes of 18 U. S. C. § 1382, which makes it a crime to reenter a "military . . . installation" after having been ordered not to do so "by any officer or person in command," a "military . . . installation" encompasses a commanding officer's area of responsibility, which, in this case, includes highways and public protest area of Vandenberg Air Force Base. United States v. Apel, p. 359.

2. *Penalty enhancement for drug distribution—Drug use a but-for cause of victim's death or injury.*—At least where use of drug distributed by defendant is not an independently sufficient cause of victim's death or serious bodily injury, a defendant cannot be liable for penalty enhancement under 21 U. S. C. § 841(b)(1)(C) unless such use is a but-for cause of death or injury. Burrage v. United States, p. 204.

3. *Pretrial seizure of indicted defendant's assets—Grand jury determination of probable cause.*—When challenging legality of a pretrial seizure of assets under 21 U. S. C. § 853(e)(1), a criminal defendant who has been indicted is not constitutionally entitled to contest a grand jury's determination of probable cause to believe defendant committed crimes charged. Kaley v. United States, p. 320.

CRIMINAL TRESPASSING. See **Criminal Law,** 1.

DEBTORS AND CREDITORS. See **Bankruptcy.**

DECLARATORY JUDGMENTS. See **Patents.**

DEFAMATION. See **Immunity from Suit.**

DISABILITY BENEFITS. See **Employee Retirement Income Security Act of 1974.**

DONNING AND DOFFING PROTECTIVE GEAR. See **Labor Law.**

DRUG TRAFFICKING. See **Criminal Law,** 2, 3.

EFFECTIVE ASSISTANCE OF COUNSEL. See **Constitutional Law,** III**; Habeas Corpus.**

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Disability plan—Suit for benefits—Contractual limitations period.—Respondent Wal-Mart's Group Long Term Disability Plan's contractual limitations provision—which requires participants seeking benefits to file suit under § 502(a)(1)(B) of ERISA within three years from time "proof of loss" is due—is enforceable, since plan's limitations period is not unreasonably short and since no controlling statute prevents plan's provision from taking effect. Heimeshoff v. Hartford Life & Accident Ins. Co., p. 99.

EMPLOYERS AND EMPLOYEES. See **Labor; Sarbanes-Oxley Act of 2002.**

ENHANCEMENT OF SENTENCES. See **Criminal Law,** 2.

ENTRY AND SEARCH OF HOME. See **Constitutional Law,** I.

EXPERT WITNESSES. See **Constitutional Law,** II.

FAIR LABOR STANDARDS ACT OF 1938. See **Labor Law.**

FEDERAL COURTS. See also **Appeals; Jurisdiction; Taxes; Venue.**

Court of Federal Claims—Suit for interest on tax overpayment—Tucker Act.—Judgment is vacated, and case is remanded for Sixth Circuit to decide in first instance whether jurisdiction over Ford's suit for interest on a tax overpayment properly lies in Court of Federal Claims pursuant to Tucker Act. Ford Motor Co. v. United States, p. 28.

FEDERAL-STATE RELATIONS. See **Abstention; Securities Law.**

FIFTH AMENDMENT. See **Constitutional Law,** II.

FINALITY OF JUDGMENTS. See **Appeals.**

FORFEITURE OF ASSETS. See **Criminal Law,** 3.

FORUM-SELECTION CLAUSES. See **Venue.**

FOURTEENTH AMENDMENT. See **Constitutional Law,** IV; **Qualified Immunity from Suit.**

FOURTH AMENDMENT. See **Constitutional Law,** IV; **Qualified Immunity from Suit.**

GRAND-JURY PROCEEDINGS. See **Criminal Law,** 3.

HABEAS CORPUS.

Ineffective assistance of counsel claim—State-court factual findings—"Doubly deferential" standard of review.—Sixth Circuit failed to apply "doubly deferential" standard of review required when a state prisoner seeks to set aside a sentence due to ineffective assistance of counsel during plea bargaining when it refused to credit a Michigan state court's reasonable factual finding and assumed that counsel was ineffective where record was silent. Burt v. Titlow, p. 12.

IMMUNITY FROM SUIT.

Aviation and Transportation Security Act—Airline's immunity from defamation suit for reporting suspicious behavior.—In this defamation action, Air Wisconsin Airlines Corp. was entitled, as a matter of law, to immunity under Act, 49 U. S. C. § 44901 *et seq.*, which exempts from civil liability airlines and their employees who report suspicious behavior to Transportation Security Administration, provided that their statements to TSA are not materially false. Air Wisconsin Airlines Corp. v. Hoeper, p. 237.

INEFFECTIVE ASSISTANCE OF COUNSEL. See **Constitutional Law,** III; **Habeas Corpus.**

JURISDICTION. See also **Abstention; Appeals; Federal Courts; Taxes.**

Personal jurisdiction—California suit for injuries outside United States.—Petitioner Daimler AG is not amenable to suit in California for injuries allegedly caused by conduct of its subsidiary Mercedes-Benz Argentina that took place entirely outside United States. Daimler AG v. Bauman, p. 117.

LABOR LAW.

Fair Labor Standards Act of 1938—Compensation—Donning and doffing protective gear—Collective bargaining.—Time that petitioners spend donning and doffing their protective gear is not compensable by operation of 29 U. S. C. § 203(*o*), a provision of Act that allows parties to collectively bargain, as parties did here, over whether "time spent in changing clothes . . . at the beginning or end of each workday" must be compensated. Sandifer v. United States Steel Corp., p. 220.

MASS ACTIONS. See **Class Action Fairness Act of 2005.**

MILITARY BASES. See **Criminal Law,** 1.

MINIMUM-CONTACTS STANDARD. See **Constitutional Law,** I.

MISSISSIPPI. See **Class Action Fairness Act of 2005.**

PATENTS.

Declaratory judgment of noninfringement—Burden of persuasion.—When a licensee seeks a declaratory judgment against a patentee that its products do not infringe licensed patent, patentee bears burden of persuasion on issue of infringement. Medtronic, Inc. v. Mirowski Family Ventures, LLC, p. 191.

PERSONAL JURISDICTION. See **Constitutional Law,** I; **Jurisdiction.**

PRE-EMPTION OF STATE LAW. See **Abstention; Securities Law.**

PRETRIAL SEIZURES. See **Criminal Law,** 3.

PRIVATE COMPANIES. See **Sarbanes-Oxley Act of 2002.**

PROBABLE-CAUSE DETERMINATIONS. See **Criminal Law,** 3.

PROTECTIVE GEAR DONNING AND DOFFING. See **Labor Law.**

PROTESTS. See **Criminal Law,** 1.

PUBLIC EASEMENTS. See **Criminal Law,** 1.

QUALIFIED IMMUNITY FROM SUIT.

Warrantless police entry—Pursuit of fleeing misdemeanor suspect.—Ninth Circuit erred in finding that Officer Stanton was not entitled to qualified immunity, where Stanton was not "plainly incompetent," *Malley* v. *Briggs*, 475 U. S. 335, 341, in light of existing precedent when he made a warrantless entry into respondent's yard while pursuing a fleeing misdemeanor suspect. Stanton v. Sims, p. 3.

SARBANES-OXLEY ACT OF 2002.

Whistleblower protection—Employees of privately held contractors and subcontractors.—Act's whistleblower protection provision, 18 U. S. C. § 1514A, shields employees of privately held contractors and subcontractors who perform work for a public company, such as a mutual fund. Lawson v. FMR LLC, p. 429.

SEARCHES AND SEIZURES. See **Constitutional Law,** IV; **Qualified Immunity from Suit.**

SECURITIES LAW.

Securities Litigation Uniform Standards Act of 1998—State-law class actions—Purchase or sale of uncovered securities.—Act—which prohibits

SECURITIES LAW—Continued.
plaintiffs from bringing state-law-based securities class actions alleging "a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security," 15 U. S. C. § 78bb(f)(1)—does not extend to state-law class actions involving purchase or sale of uncovered securities. Chadbourne & Parke LLP v. Troice, p. 377.

SELF-INCRIMINATION. See **Constitutional Law,** II.

SENTENCE ENHANCEMENT. See **Criminal Law,** 2.

SIXTH AMENDMENT. See **Constitutional Law,** III.

TAXES. See also **Federal Courts.**

District court jurisdiction—Partnership tax shelter—Tax underpayment penalties.—District Court had jurisdiction in this partnership-level proceeding to determine whether penalty for tax underpayments attributable to valuation misstatements, see 26 U. S. C. § 6662(b)(3), is applicable to an underpayment resulting from a basis-inflating transaction subsequently disregarded for lack of economic substance; penalty is applicable to tax underpayments in this case. United States v. Woods, p. 31.

TELECOMMUNICATIONS ACT OF 1996. See **Abstention.**

TRANSPORTATION. See **Immunity from Suit.**

TRESPASSING. See **Criminal Law,** 1.

TUCKER ACT. See **Federal Courts.**

VENUE.

Forum-selection clause—Motion to transfer.—A forum-selection clause may be enforced by a motion to transfer under 28 U. S. C. § 1404(a); when a defendant files a § 1404(a) motion, a district court should transfer case unless extraordinary circumstances unrelated to convenience of parties clearly disfavor a transfer. Atlantic Marine Constr. Co. v. United States Dist. Court for Western Dist. of Tex., p. 49.

WARRANTLESS SEARCHES. See **Constitutional Law,** IV.

WHISTLEBLOWERS. See **Sarbanes-Oxley Act of 2002.**

WORDS AND PHRASES.

"[M]ilitary . . . installation." 18 U. S. C. § 1382. United States v. Apel, p. 359.

"100 or more persons." Class Action Fairness Act of 2005, 28 U. S. C. § 1332(d)(11)(B)(i). Mississippi ex rel. Hood v. AU Optronics Corp., p. 161.