

(ORDER LIST: 583 U.S.)

MONDAY, JANUARY 8, 2018

CERTIORARI -- SUMMARY DISPOSITIONS

17-263 SANDERS, AMY V. JONES, LAMAR

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *Manuel v. Joliet*, 580 U.S. __ (2017).

17-270 WHITE, JIMMIE E. V. UNITED STATES

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of the confession of error by the Solicitor General in his brief for the United States filed on November 30, 2017.

ORDERS IN PENDING CASES

17M71 RICHTER, WILLIAM V. MARQUIS, NORMA

17M72 STEWART, SHIRLEY A. V. UNITED STATES

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

17M73 DOE, JOHN V. UNITED STATES

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

17M74 OTCHKOV, NIKOLAY V. EVERETT, ALAN, ET AL.

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

15-1439 CYAN, INC., ET AL. V. BEAVER CTY. EMPLOYEES, ET AL.

The motion of petitioners to strike the supplemental brief of respondents is granted.

16-1495 HAYS, KS V. VOGT, MATTHEW JACK D.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted. Justice Gorsuch took no part in the consideration or decision of this motion.

17-419 DAWSON, JAMES, ET UX. V. STEAGER, WV STATE TAX COMM'R

17-532 HERRERA, CLAYVIN V. WYOMING

17-571 FOURTH ESTATE PUB. BENEFIT CORP. V. WALL-STREET.COM, LLC, ET AL.

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

17-5256 DAKER, WASEEM V. TOOLE, WARDEN

17-5974 SHEKHEM EL BEY, YA'SHUA A. V. UNITED STATES, ET AL.

17-6059 WELLS, KELVIN V. BERRYHILL, ACTING COMM'R OF SSA

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

17-6521 A. I. V. M. A.

17-6649 NICHOLSON, DONNA V. PEORIA, IL, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until January 29, 2018, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

16-970 RINEHART, BRANDON L. V. CALIFORNIA

16-1369 ARIZONA V. BAHR, SANDRA L., ET AL.

16-1449 DIRECTV, LLC, ET AL. V. HALL, MARLON, ET AL.

16-8929 HOGAN, LAQUINCE T. V. KELLEY, DIR., AR DOC

16-9705 HAWKINS, JEFFREY V. MICHIGAN

16-9727 MUA, JOSEPHAT, ET AL. V. CA CASUALTY INDEMNITY EXCHANGE

17-94 STAGG P.C. V. DEPT. OF STATE, ET AL.

17-160 POUNCY, OMAR R. V. PALMER, WARDEN

17-162 LEYSE, MARK V. LIFETIME ENTERTAINMENT SERVICES

17-175 BARTEE, EMMANUEL Q. V. UNITED STATES

17-190 DEFENSE DISTRIBUTED, ET AL. V. DEPT. OF STATE, ET AL.

17-195 NEELY, JUDGE, ETC. V. WY COMM'N ON JUDICIAL CONDUCT

17-215) MASSACHUSETTS V. WAMPANOAG TRIBE, ET AL.

17-216) AQUINNAH, MA, ET AL. V. WAMPANOAG TRIBE, ET AL.

17-260 HARWOOD, TODD V. KING, SUSAN J.

17-294 THOMPSON, KAREN V. PARK, KELLY S.

17-297 ROTHBARD, JEFFREY V. UNITED STATES

17-299 TEXAS V. KLEINERT, CHARLES

17-311 CHAN, PUI-KWONG, ET AL. V. YANG, BAIZHEN, ET AL.

17-313 LEDEZMA-COSINO, SALOMON V. SESSIONS, ATT'Y GENERAL

17-326 JOHNSON, RAHEEM C. V. VIRGINIA

17-343 CONVERGEX GROUP, ET AL. V. FLETCHER, LANDOL

17-355 HESSEMAN, CAROLANN V. RESTIVO, JOHN, ET AL.

17-358 AMALFITANO, MICHAEL V. GOOGLE LLC

17-363 VELERON HOLDING, B.V. V. MORGAN STANLEY, ET AL.

17-365 KINDRED HOSPITALS EAST, LLC V. ESTATE OF KLEMISH, ET AL.

17-375 KOKOCINSKI, CHARLOTTE V. COLLINS, ARTHUR D., ET AL.

17-379 ECHOSTAR SATELLITE V. FL DEPT. OF REVENUE, ET AL.

17-383 DOWNEY, CHRISTOPHER P. V. DEPT. OF ARMY, ET AL.

17-384 SELLS, CRYSTAL V. CSX TRANSPORTATION, INC.

17-389 HAMILTON, PAUL C. V. CABRAL, CHRISTOBAL, ET AL.
17-396 LAY, VIRGINIA V. SINGING RIVER HEALTH SYSTEM
17-415 R.J. REYNOLDS TOBACCO, ET AL. V. GRAHAM, TERESA
17-417 HOPE, MAURICE S. V. CARTLEDGE, WARDEN
17-441 FERRELLGAS PARTNERS, ET AL. V. MORGAN-LARSON, ET AL.
17-448 JACKSON, THOMAS S. V. UNITED STATES
17-449 AMERICAN TRIUMPH LLC, ET AL. V. TABINGO, ALLAN A.
17-455 FIRST SOUTHERN NATIONAL BANK V. SUNNYSLOPE HOUSING
17-478 MURRAY ENERGY CORP., ET AL. V. PRUITT, SCOTT
17-479 TSO, REECE N. V. UNITED STATES
17-519 ALL-TAG SECURITY, S.A., ET AL. V. CHECKPOINT SYSTEMS, INC.
17-522 HANKINS, ANNE M. V. UNITED STATES
17-547 BARBER, RIMS, ET AL. V. BRYANT, GOV. OF MS, ET AL.
17-548 RED BEAR, BERNADINE V. SESDAC, INC.
17-554 SCOTT, THEODORE V. MARYLAND
17-556 RIDGEWAY, CHRISTOPHER, ET AL. V. STRYKER CORPORATION, ET AL.
17-568 RIDDELL, DAVID J. V. FLORIDA, ET AL.
17-572 C. R. V. S. R., ET AL.
17-574 KINNEY, CHARLES V. CLARK, MICHELLE R.
17-577 DU, TRI Q. V. NJ COMMITTEE ON CHARACTER
17-590 LEWIS, ALWIN C. V. SUPERIOR COURT OF CA, ET AL.
17-595 COLBERT, CHRISTOPHER, ET AL. V. CHICAGO, IL, ET AL.
17-597 CLEMONS, CARLOS V. DELTA AIRLINES, INC.
17-598 SMITH, ANTHONY W. V. BNSF RAILWAY CO.
17-599 SAIA, LOUIS V. FLYING J. INC., ET AL.
17-600 ALEM, DANIEL V. ARNOLD, WARDEN
17-601 MEDRANO-ARZATE, RICARDO, ET AL. V. MAY, PAUL C., ET AL.
17-603 HAZEN, RICHARD, ET AL. V. HOLMES BEACH, FL

17-604 LOGAN, STEVEN T. V. TEXAS
17-607 JARRETT, ROBERT L. V. CA DEPT. OF HEALTH CARE, ET AL.
17-611 LOCK, CHRISTOPHER, ET AL. V. TORRES, CINDIA, ET AL.
17-612 QIAN, ZIFEN V. CAROL WILSON FINE ARTS, INC.
17-616 S. A. B. V. SESSIONS, ATT'Y GEN.
17-620 E. L. V. VOLUNTARY INTERDISTRICT CHOICE
17-621 WHITE, MICHAEL B. V. CORCORAN, COLLENE K.
17-622 CORRIGAN, JOHN L. V. UNITED STATES
17-628 SPRINT COMMUNICATIONS CO. V. LOZIER, RICHARD W., ET AL.
17-629 SCOTT, DANE M. V. LOHMAN, DALE B.
17-636 CAMPEAU, DAVID F. V. SANDERCOCK, PROTHONOTARY, ET AL.
17-639 RINE, JANA Y. V. MOORE BROTHERS, INC., ET AL.
17-640 SMITH, TINA M. V. TEXAS
17-642 CAMPAIGN FOR S. EQUALITY, ET AL. V. BRYANT, GOV. OF MS, ET AL.
17-644 BANGERA, DOMINIC A. V. OHIO
17-645 RECOGNICORP, LLC V. NINTENDO CO., LTD., ET AL.
17-648 RAIMONDO, ANTHONY P. V. ARIAS, JOSE A.
17-653 GONZALEZ-CANTU, ANGELICA V. SESSIONS, ATT'Y GEN.
17-655 ALI, MUSSA V. CARNEGIE INSTITUTION, ET AL.
17-657 BI-STATE DEV. AGENCY V. UNITED STATES, EX REL. FIELDS
17-660 HEALEY, MARK V. HEALEY, EDWIN N., ET AL.
17-661 HEREDIA, HOXQUELIN G. V. SESSIONS, ATT'Y GEN.
17-665 JAYASUNDERA, SUMINDA V. GARCIA, AIMEE, ET AL.
17-668 PAULS, MANAL V. HOFFNER, WARDEN
17-673 ENGLISH, MARILYNN V. BAC HOME LOANS SERVICING LP
17-676 GRESHAM, VICTOR, ET AL. V. SWANSON, ATT'Y GEN. OF MN
17-677 GRESHAM, VICTOR, ET AL. V. PICKER, MICHAEL, ET AL.
17-679 WHITCHURCH, JULIE P. V. VIZANT TECHNOLOGIES, ET AL.

17-686 QUINN, JOHN G. V. GUERRERO, JESUS D., ET AL.
17-687 INTERNATIONAL FIDELITY INSURANCE V. HAWAII
17-693 EDIONWE, ALEXANDER V. BAILEY, GUY, ET AL.
17-697 SMARTFLASH LLC, ET AL. V. APPLE INC.
17-703 TILLET, JERRI J. V. BLM, ET AL.
17-705 BETTS-GASTON, AVALON V. UNITED STATES
17-709 ZADA, JOSEPH V. UNITED STATES
17-710 RAKOWSKY, NATALIYA V. OPM
17-711 APPLEBAUM, ERIC V. UNITED STATES
17-716 PRISM TECHNOLOGIES V. T-MOBILE USA
17-718 BRAVO-ESCOBAR, HERIBERTO V. SESSIONS, ATT'Y GEN.
17-720 HARDESTY, JOE, ET UX. V. CA STATE MINING BOARD
17-726 FEAS, ALINA V. UNITED STATES
17-727 HYATT CORPORATION V. UNITE HERE LOCAL 1
17-728 GAZELLE, FREDERICK V. SHULKIN, SEC. OF VA
17-734 KNIGHT, ANTHONY M. V. SEC
17-745 GARDNER, ELIZABETH, ET VIR V. IRS
17-746 GARDNER, FREDRIC, ET UX. V. CIR
17-754 WEISSKOPF, R. DAVID V. MARCUS, PHILIP, ET AL.
17-761 LI, FENG V. MATAL, JOSEPH, ET AL.
17-763 O'GRADY, BRIAN, ET AL. V. NUFIC
17-764 MILLER, ROBERT M. V. MSPB
17-777 LOPEZ, JUAN V. UNITED STATES
17-794 SHETTY, NIKI-ALEXANDER V. WELLS FARGO BANK, ET AL.
17-796 STEVENSON, TIMOTHY V. MARYLAND
17-797 COOKE, RONALD N. V. VIRGINIA
17-799 HARVEY, DANNY V. UNITED STATES
17-812 CORTES-MENDOZA, SERGIO V. UNITED STATES

17-817 AUSTIN, TX, ET AL. V. REAGAN NAT'L ADVERTISING
17-821 DAILEY, WARREN V. UNITED STATES
17-825 NELLUM, MONTELL V. UNITED STATES
17-832 STERN, PETER K. V. UNITED STATES
17-835 GUTMAN, CAROL-LISA V. UNITED STATES
17-836 MYERS, REBA M. V. UNITED STATES
17-849 WILKERSON, DENNIS M. V. UNITED STATES
17-5126 MOHAMUD, MOHAMED O. V. UNITED STATES
17-5229 GALATI, RONALD V. UNITED STATES
17-5244 ENGEL, JULIUS M. V. STATE BAR OF CA
17-5343 DEAN, ERNEST L. V. OREGON
17-5347 LINDSEY, MICHAEL V. INDIANA
17-5381 GRAY, WILLIAM L. V. VASQUEZ, WARDEN
17-5420 BELSER, MARVIN V. JAMES, BRENDA, ET AL.
17-5442 HARDY, RENDELL C. V. UNITED STATES
17-5452 SURIANO, JACK M. V. WISCONSIN
17-5456 MYERS, RONALD B. V. UNITED STATES
17-5471 CASTILLO, ALDO V. UNITED STATES
17-5472 CASTILLO, LUIS A. V. UNITED STATES
17-5477 SCHNEIDER, COLT D. V. UNITED STATES
17-5489 BROWN, ADE V. PEREZ, VERONICA, ET AL.
17-5527 REYES, FERNANDO B. V. UNITED STATES
17-5532 PENA-TRUJILLO, JOSE V. UNITED STATES
17-5578 HASSAN ALI, MAHDI V. MINNESOTA
17-5660 WHEELER, JAMES G. V. UNITED STATES
17-5674 RAINER, ATORRUS L. V. COLORADO
17-5677 LUCERO, GUY V. COLORADO
17-5693 DEGRAFFENRIED, FREDERICK V. UNITED STATES

17-5700 ARMSTRONG, CHERYL V. COLORADO
 17-5704 GARCIA, JAIME S. V. UNITED STATES
 17-5724) SMITH, DEARICK V. UNITED STATES
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 17-5732) HAMPTON, RUSSELL V. UNITED STATES
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 17-5741) JACKSON, MICHAEL V. UNITED STATES
 17-5725 SANTOS, RAFAEL E. V. ILLINOIS
 17-5746 MEJIA-GUERRA, DARWIN J. V. UNITED STATES
 17-5804 PETERSON, QUINTON V. WEST VIRGINIA
 17-5939 PANDELI, DARREL P. V. ARIZONA
 17-5948 MADRID-MARTINEZ, NILSON V. UNITED STATES
 17-6025 THOMAS, BLAIR V. UNITED STATES
 17-6036 DIAL, SHAUNDELLE V. UNITED STATES
 17-6068 ABDUR'RAHMAN, ABU A., ET AL. V. PARKER, COMM'R, TN DOC, ET AL.
 17-6071 MERCER, GREGORY S. V. FAIRFAX COUNTY BOARD, ET AL.
 17-6072 MERCER, GREGORY S. V. POWERS, TRICIA W.
 17-6074 ALLEN, WILLIAM G. V. WESTBROOKS, WARDEN
 17-6099 VENTA, GUSTAVO V. JARVIS, WARDEN
 17-6127 PRYSTASH, JOSEPH V. DAVIS, DIR., TX DCJ
 17-6133 WARKENTIN, KEITH V. FEDERATED LIFE INSURANCE CO.
 17-6190 IMPERATO, DANIEL V. SEC
 17-6239 MOORE, LEE E. V. MITCHELL, WARDEN
 17-6246 JOHNSON, JAMARR V. UNITED STATES
 17-6269 RICHARDSON, CURRY S. V. DAVIS, DIR., TX DCJ
 17-6288 RILEY, JOSH R. V. DAVIS, DIR., TX DCJ
 17-6308 WARREN, GREGORY V. SAWYER, CATHY J., ET AL.
 17-6309 WALKER, RUSSELL F. V. HOKE BOARD OF ELECTIONS, ET AL.
 17-6310 STANCU, JOHN V. STARWOOD HOTELS, ET AL.
 17-6317 KAEDING, MARK H. V. SCHWEITZER, WARDEN

17-6327 SOTELO CANTU, JAVIER V. C. R. FISCHER & SONS, INC.
17-6331 WILLIAMS, DAVE V. JIN, B.
17-6333 WILLIAMS, JAYLAN R. V. TEXAS
17-6337 JACOBS, ERIKA V. CLAYTON CTY. SOL. GEN. OFFICE
17-6352 ALEXANDER, STEVEN E. V. CALIFORNIA
17-6360 KILLE, DAVID A. V. OLSON, DEBBIE L.
17-6362 KENNEDY, CHRISTOPHER L. V. KERNAN, SEC., CA DOC
17-6366 TIMMS, PAUL D. V. DAVIS, DIR., TX DCJ
17-6367 THOMPSON, DWAYNE M. V. PLAYERS PLACE LAKESIDE, ET AL.
17-6370 WILLIAMS, BOBBY O. V. LASHBROOK, WARDEN
17-6375 DONCHEV, FAITH V. DeSIMONE, DENNIS
17-6376 SIMMONS, NIKO V. HAAS, WARDEN
17-6378 RIEDLINGER, DARY G. V. EVERETT, WA
17-6379 REID, TOBIAS R. V. CLEVELAND POLICE DEPT., ET AL.
17-6385 SANDOVAL, DAVID R. V. DAVIS, DIR., TX DCJ
17-6386 RODRIGUEZ, HUGO L. V. KLEE, WARDEN
17-6387 JONES, DANIEL L. V. NEBRASKA
17-6388 JACKSON, ROY V. VANNOY, WARDEN
17-6393 LAVELLE, MARY L. V. U.S. BANK NATIONAL ASSOCIATION
17-6396 KELLY, BERNARD V. HAAS, WARDEN
17-6405 YOUNG, CHRISTOPHER V. DAVIS, DIR., TX DCJ
17-6411 SHEPHERD, MAURICE V. CLAY, SUPT., LUMBERTON
17-6412 QUADIR, MOHAMMED V. NY STATE DEPT. OF LABOR
17-6413 JARA, ABDULLAHI H. V. STANDARD PARKING, ET AL.
17-6414 COLLINS, OLUFEMI S., ET UX. V. JPMORGAN CHASE BANK, ET AL.
17-6419 MOLDER, KIRK R. V. KIRKEGARD, WARDEN, ET AL.
17-6420 SMITH, CHARLES V. AKPORE, KEVWE, ET AL.
17-6425 JAMES, VAUGHN E. V. PENNSYLVANIA

17-6427 MOTT, CLARENCE V. VANNOY, WARDEN
17-6428 PEREZ, ALEX V. CALIFORNIA
17-6430 SPAH, JANELLE R. V. SPAH, STEVEN P.
17-6435 HUBBARD, CHARLES D. V. CALIFORNIA
17-6437 HAWES, LANCE D. V. PALMER, WARDEN, ET AL.
17-6442 VEGA, JUAN F. V. FL DEPT. OF CHILDREN & FAMILIES
17-6446 WESSINGER, TODD V. VANNOY, WARDEN
17-6448 VINCENT, CLAUDE P. V. SHULKIN, SEC. OF VA
17-6449 TIBBETTS, RAYMOND V. JENKINS, WARDEN
17-6450 LAI, KENNEY S. V. NEW YORK, NY
17-6451 JACK, CLARENCE V. HOOPER, WARDEN
17-6453 ITURBE-GONZALEZ, ANGEL V. UNITED STATES
17-6457 JONES, THOMAS E. V. WILBERT BURIAL VAULT, ET AL.
17-6458 JONES, LAWRENCE V. BONDI, ATT'Y GEN. OF FL, ET AL.
17-6460 SHINE, DEANNA V. MORRIS, JUDITH K., ET AL.
17-6461 SMITH, GALEN J. V. ENCINO GARDENS APARTMENTS, INC.
17-6462 SHAPIRO, ROBERT V. ACCU, ET AL.
17-6465 BRAUNSTEIN, STEVEN V. BAKER, WARDEN, ET AL.
17-6468 WILLIAMS, CHARLES V. WETZEL, SEC., PA DOC, ET AL.
17-6469 TOLBERT, KUNTA V. WOODS, WARDEN
17-6471 WILLIAMS, JAMES V. MARYLAND
17-6473 VITASEK, ARTHUR L. V. ARIZONA
17-6474 BURNS, RONALD V. JOHNSON, ADM'R, NJ, ET AL.
17-6475 BIGBEE, ROOSEVELT V. LEBO, WARDEN
17-6478 NEWTON, DONTA V. MARYLAND
17-6479 MITSKOG, MARNE K. V. MSPB
17-6480 K. Y. J. V. TX DEPT. OF FAMILY
17-6481 LUCKETT, CHARLES E. V. CALIFORNIA

17-6482 LANE, MICHAEL E. V. TEXAS
 17-6483 McGRATH, GEORGE V. MASSACHUSETTS
 17-6485 SHARP, RICHARD V. HAMMERS, JUSTIN
 17-6486 SPELLMAN, REGINALD B. V. LANE, WARDEN
 17-6487 SIMS, CANDACE J. V. JONES, SEC., FL DOC, ET AL.
 17-6491 KENNEDY, MICHAEL A. V. CT. OF CRIM. APP. OF TX, ET AL.
 17-6492 DAVIS, TROY V. VANNOY, WARDEN
 17-6493 SANDERS, ERIC A. V. WAL-MART STORES EAST, L.P.
 17-6496 JOHNSON, MARCUS P. V. HAWKINS, ADM'R, NASH
 17-6500 HOWELL, DANNY V. BROWN, SUPT., WABASH
 17-6501 HETTINGA, WYLMINA E. V. LOUMENA, TIMOTHY P.
 17-6504 MONTGOMERY, MATTHEW V. GREEN, WARDEN, ET AL.
 17-6505 FAVORS, ALEXIS R. V. UNITED STATES
 17-6506 CODY, JOHN V. OHIO
 17-6511 WRIGHT, WILLIE F. V. WRIGHT, KENYA Y.
 17-6512 VASQUEZ, ISRAEL S. V. TEXAS
 17-6517 HAMILTON, ROHAN V. GRIFFIN, SUPT., GREEN HAVEN
 17-6518) FLETCHER, MATTHEW V. SOTO, WARDEN
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 17-6718) FLETCHER, JENNIFER V. DOBSON-DAVIS, WARDEN
 17-6522 LUCAS, CHRISTINE M. V. WARD, CARRIE, ET AL.
 17-6525 RIDEOUT, MARVIN V. CLARKE, DIR., VA DOC
 17-6527 RHODES, KAVIN MAURICE V. ROWE, WARDEN, ET AL.
 17-6531 HUMPHREY, JAMES V. DOUMA, WARDEN
 17-6532 FERGUSON, BARRY V. VANNOY, WARDEN
 17-6533 JARED H. V. ILLINOIS
 17-6534 FARLOW, STEVEN V. KERNAN, SEC., CA DOC
 17-6535 GIBBS, PAUL D. V. SMITH, WARDEN
 17-6536 BLACK, ROBERT V. CALIFORNIA APPELLATE PROJECT

17-6537 BENAVIDES, RAUL V. DAVIS, DIR., TX DCJ
17-6539 McKNIGHT, EUGENE D. V. MOORE, WARDEN
17-6541 VARGAS, IVAN V. CALIFORNIA
17-6545 WORRELL, KAHLID Y. V. TEXAS
17-6547 H. K. V. V. FL. DEPT. OF CHILDREN, ET AL.
17-6550 DREW, THOMAS V. WETZEL, SEC., PA DOC, ET AL.
17-6553 GLICK, RON D. V. TOWNSEND, ANGELA J., ET AL.
17-6559 HORNER, KIMBERLY V. UNITED STATES
17-6561 SMALL, ALBERT N. V. MARYLAND
17-6566 AGUILAR, DAVID L. V. TEXAS
17-6569 TIPTON, DARNELL V. PFISTER, WARDEN
17-6570 MOSS, JAMES V. OLSON, WARDEN
17-6574 MORANT, LEON V. FLORIDA
17-6575 HARASZEWSKI, HUBERT D. V. LIZARRAGA, WARDEN, ET AL.
17-6578 MONTES, MICHAEL V. KERNAN, SEC., CA DOC
17-6579 MOTHERSHED, GEORGE L. V. APACHE CORP., ET AL.
17-6585 GRIFFIN, JAMES V. TEXAS
17-6586 HUBERT, ANDRE D. V. TEXAS
17-6590 SMITH, GEROME V. TENNESSEE
17-6591 RUSHINSKY, JOHN J. V. ARIZONA
17-6593 SERNAS, ALEX A. V. ARIZONA
17-6595 LINDSEY, WILLIAM A. V. COLORADO
17-6598 MILLER, TERESA V. WV DOC, ET AL.
17-6600 JONES, DONALD S. V. WILLIAMS, WARDEN
17-6601 JONES, DIAGO M. V. MICHIGAN
17-6604 LINDSAY, THEODUS V. GLICK, WILLIAM, ET AL.
17-6605 MARTIN, JEROME V. HAAS, WARDEN
17-6608 GIBBS, SAMMY V. JONES, SEC., FL DOC

17-6612 BIRD, CHESTER L. V. PACHECO, WARDEN, ET AL.
17-6614 CLINE, DONALD R. V. NORTH CAROLINA
17-6615 BATTLES, STEVE V. DAVIS, DIR., TX DCJ
17-6617 TURNER, JOHN E. V. NEVADA
17-6620 YOUNG, RUBIN V. WHITE, CHRISTINA, ET AL.
17-6621 WATSON, CARMEN N. V. MYLAN PHARMACEUTICALS, INC.
17-6623 YOUNG, GREGORY L. V. TAMPKINS, WARDEN
17-6624 TAPIA, GERARDO L. V. SULLIVAN, WARDEN
17-6625 WRIGHT, FRANKLIN H. V. HUGHES SOCOL PIERS RESNICK & DYM
17-6627 MANN, VINCE V. BAUMAN, WARDEN
17-6630 CAMPBELL, DANNY R. V. BEAR, WARDEN
17-6631 McCAIN, ERIC R. V. NEBRASKA
17-6635 COVIL, BRIONNE A. V. VIRGINIA
17-6640 SMITH, LADONTE M. V. TENNESSEE
17-6642 CAMPBELL, STEVEN V. TANNER, WARDEN
17-6645 MILLER, JARROD J. V. SHERMAN, WARDEN
17-6646 BEASLEY, WINIFRED V. BEASLEY, KEVIN, ET AL.
17-6652 MITCHELL, OCTAVIA V. CHICAGO, IL, ET AL.
17-6653 CURRY, ROBERT V. LASHBROOK, WARDEN
17-6654 PHILLIPOS, ROBEL V. UNITED STATES
17-6655 SCHULER, EUGENE P. V. CLARKE, DIR., VA DOC
17-6658 CRUZ-RIVERA, LUCIO V. PASH, WARDEN
17-6659 MOON, ERNEST V. SCOTT, WARDEN
17-6660 BREWER, DARRON V. ILLINOIS
17-6662 ADAMS, OSCAR D. V. SMITH, WARDEN, ET AL.
17-6663 BANNERMAN, ALEXANDER V. MILLER, WARDEN, ET AL.
17-6665 MOODY, WALTER L. V. DUNN, COMM'R, AL DOC
17-6670 ZEIGLER, ANDRE L. V. YATES, SHERRY, ET AL.

17-6671 WHITE, JOSEPH V. DETROIT MENTAL HEALTH, ET AL.
 17-6672 VICKERS, GEORGE T. V. LINK, SUPT., GRATERFORD, ET AL.
 17-6673 WARENBACK, DOUGLAS H. V. NEVADA
 17-6675) RACHEL, DAVID P. V. UNITED STATES
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 17-6703) BREWER, STEVEN V. UNITED STATES
 17-6677 NEAL, MICHAEL V. PIERCE, WARDEN, ET AL.
 17-6679 ALLEN, BRUCE V. KERNAN, SEC., CA DOC, ET AL.
 17-6686 EMMEL, KAREN V. AMTRUST-NP SFR, VENTURE, LLC
 17-6687 BOMBER, DAVID M. V. CLARKE, DIR., VA DOC
 17-6689 CHALMERS, TYRONE V. TENNESSEE
 17-6691 COLON, WILLIAM V. PENNSYLVANIA
 17-6692 CLARK, LAMAR E. V. PALMER, WARDEN
 17-6693 KUN, ALBERT M. V. STATE BAR OF CA
 17-6694 LAHR, JEREMY V. INDIANA
 17-6695 JOHNSON, STEVEN A. V. EBBERT, WARDEN
 17-6697 FERRIS, EDWARD L. V. UNITED STATES
 17-6698 CUTULLE, JOEL S. V. UNITED STATES
 17-6699 ASAELI, BENJAMIN S. V. BOE, SUPT., CLALLAM BAY
 17-6700 DIAZ-RODRIGUEZ, FERNANDO V. UNITED STATES
 17-6701 COLE, AKIDA S. V. MICHIGAN
 17-6702 BAGGOTT, ROBERT V. UNITED STATES
 17-6706 RICHARDSON, ERIC V. UNITED STATES
 17-6707 WURIE, BRIMA V. UNITED STATES
 17-6709 GONSALVES, STANLEY V. UNITED STATES
 17-6710 GEBRETSADIKE, AWOKE V. TRAVELERS HOME INSURANCE
 17-6711 GALVAN, GLORIA V. UNITED STATES
 17-6713 AGE, LOUIS T. V. UNITED STATES
 17-6717 VEREEN, OMAR V. UNITED STATES

17-6723 BOND, PAMELA S. V. SSA
17-6725 PLATO, RICHARD M. V. UNITED STATES
17-6733 GOFFER, ZVI V. UNITED STATES
17-6734 WASHINGTON, TIMOTHY D. V. UNITED STATES
17-6736 VAZQUEZ-AMPARAN, ERNESTO V. UNITED STATES
17-6737 TAPIA, LUIS M. V. UNITED STATES
17-6746 COSTELLA, KEITH J. V. CALIFORNIA
17-6747 DAMM, GREGORY P. V. UNITED STATES
17-6748 MENDOZA, MARCOS V. CALIFORNIA
17-6752 HERNANDEZ-VASQUEZ, ANDRES A. V. UNITED STATES
17-6757 BROWDER, BRIAN S. V. UNITED STATES
17-6760 GIBSON, LAMAR V. UNITED STATES
17-6761 GARCIA-ACOSTA, JESUS V. UNITED STATES
17-6762 FRIAS, LUIS V. UNITED STATES
17-6763 FORD, CALVIN V. UNITED STATES
17-6764 GUTIERREZ-YANEZ, JOSE V. UNITED STATES
17-6765 GARCIA-ORTIZ, JOSE V. UNITED STATES
17-6766 FLEMING, WILLIAM V. BRENNAN, POSTMASTER GEN.
17-6768 SHIPTON, DENNIS G. V. UNITED STATES
17-6771 ROBINSON, KEEVEN D. V. PFEIFFER, WARDEN
17-6772 RIOS-DIAZ, JORGE V. UNITED STATES
17-6773 SANDERS, CORTEZ V. UNITED STATES
17-6774 BROWN, EDWARD J. V. KANSAS
17-6775 BARNETT, ALAN B. D. V. UNITED STATES
17-6776 FAIRCLOTH, JAMES A. V. RAEMISCH, DIR., CO DOC, ET AL.
17-6777 FLOOD, CEDRIC V. WILLIAMS, WARDEN
17-6778 AKARD, JEFFREY V. UNITED STATES
17-6782 DIXON, JEROME V. UNITED STATES

17-6783 CROCKETT, WARDELL V. UNITED STATES
17-6785 MILAN, JORGE L. V. UNITED STATES
17-6786 MURPHY, CAROL V. MAINE
17-6787 PEARSEY, VERNARD J. V. UNITED STATES
17-6788 MUSTAFARAJ, FATMIR V. UNITED STATES
17-6791 BLACKWELL, FAIGER M. V. UNITED STATES
17-6793 SERRANO, ANDY V. UNITED STATES
17-6794 SMITH, KEVIN V. UNITED STATES
17-6795 SHEPHEARD, DENNIS M. V. UNITED STATES
17-6799 NUGENT, BYRON V. UNITED STATES
17-6804 BLACK, GARY V. MASSACHUSETTS
17-6807 WATKINS, ANTON V. UNITED STATES
17-6809 DIPPOLITO, DALIA V. FLORIDA
17-6811 RILEY, JOHN D. V. UNITED STATES
17-6812 STRAW, ANDREW U. V. SUPREME COURT OF IN, ET AL.
17-6821 BARNETT, TERRENCE J. V. UNITED STATES
17-6822 MADISON, JOHNNY V. UNITED STATES
17-6824 GEASLAND, RICHARD V. UNITED STATES
17-6826 GJELI, YLLI V. UNITED STATES
17-6827 IBARRA CARDONA, BALTAZAR V. UNITED STATES
17-6828 HENRY, CLIFFORD E., ET AL. V. UNITED STATES
17-6832 PENN, JESSE N. V. UNITED STATES
17-6833 OATMAN, WESLEY C. V. UNITED STATES
17-6834 LATKA, RICHARD D. V. UNITED STATES
17-6835 JENNINGS, RANDALL V. UNITED STATES
17-6837 PETERSEN, DAVID V. UNITED STATES
17-6841 WRIGHT, KENNEDY V. JONES, SEC., FL DOC, ET AL.
17-6845 WHITE, RAYMOND A. V. UNITED STATES

17-6851 MARIA, GRAY V. MUNIZ, WARDEN
17-6854 PERALTA SANCHEZ, RUFINO V. UNITED STATES
17-6857 LEWIS, DAVID V. UNITED STATES
17-6858 MALDONADO, VICTOR H. V. UNITED STATES
17-6860 BELIN, KING V. UNITED STATES
17-6864 PHILIPPEAUX, PHILANDER V. UNITED STATES
17-6865 PATEL, BABUBHAI V. McKESSON CORP.
17-6866 MEANS, ALFRED V. PENNSYLVANIA
17-6870 JACKSON, WILLIAM V. UNITED STATES
17-6871 JOHNSON, DONALD M. V. UNITED STATES
17-6873 KING, MATTHEW J. V. UNITED STATES
17-6876 RIVERA, MARCEL A. V. UNITED STATES
17-6878 ROMERO-PAYAN, JOSE R. V. UNITED STATES
17-6880 ROCKWELL, MATTHEW G. V. COLORADO
17-6884 UBALDO, CESAR P. V. UNITED STATES
17-6888 THOMPSON, MARCUS D. V. UNITED STATES
17-6889 TELEMAQUE, STEPHEN V. UNITED STATES
17-6893 WOODARD, WILLIE G. V. UNITED STATES
17-6894 WATERS, THOMAS B. V. UNITED STATES
17-6895 VELIZ, TEODORO V. GRIFFIN, SUPT., GREEN HAVEN
17-6896 BUNCH, TORRANCE V. UNITED STATES
17-6900 BUTLER, LOUIS R. V. KELLEY, DIR., AR DOC
17-6906 LEWIS, REGINALD S. V. LINK, SUPT., GRATERFORD, ET AL.
17-6907 KE, LEI V. DREXEL UNIVERSITY, ET AL.
17-6911 GALLARZO, JESUS V. UNITED STATES
17-6913 CONE, JOHN E. V. UNITED STATES
17-6915 BROWN, NATHAN V. UNITED STATES
17-6916 JONES, RONALD V. DELAWARE

17-6919 MARTIN, RAYMOND M. V. UNITED STATES
17-6925 SUTTON, LEONA L. V. UNITED STATES
17-6930 CAMICK, LESLIE L. V. UNITED STATES
17-6933 PEAK, CLORETHA W. V. UNITED STATES
17-6941 MOORE, ANTONIO J. V. UNITED STATES
17-6947 MOSELEY, TIMOTHY D. V. KEMPER, WARDEN
17-6948 JONES, PATRICK A. V. UNITED STATES
17-6949 McCLAIN, SHAWN V. UNITED STATES
17-6955 DIGGS, BEVERLY V. DUKE, SEC. OF HOMELAND SECURITY
17-6956 BAMDAD, MASOUD V. BAIRD, WARDEN, ET AL.
17-6957 HAGOS, ABRAHAM V. RAEMISCH, DIR., CO DOC, ET AL.
17-6959 PENSON, GORDIE L. V. UNITED STATES
17-6960 NWAFOR, LEONARD U. V. UNITED STATES
17-6961 DIPPOLITO, FRANK V. UNITED STATES, ET AL.
17-6962 MORRIS, JAMES V. U.S. SENTENCING COMM., ET AL.
17-6964 LUNA, PASCUAL V. UNITED STATES
17-6966 MADISON, CHARLES L. V. UNITED STATES
17-6970 REID, CLINTON M. V. UNITED STATES
17-6974 KELLEY, MICHAEL V. UNITED STATES
17-6976 JACOBS, SAMUEL B. V. UNITED STATES
17-6977 LEGORETTA, MARTIN C. V. UNITED STATES
17-6979 GARCIA-PUGA, JOSE F. V. UNITED STATES
17-6982 MORAL, CARLOS E. V. KANSAS
17-6983 MORALES, MARIA V. UNITED STATES
17-6984 WHEELER, ANGEL V. KANSAS
17-6985 WEATHERMAN, CHARLES B. V. UNITED STATES
17-6986 WASHINGTON, ASKIA V. UNITED STATES
17-6988 WILLIAMS, WEBSTER D. V. UNITED STATES

17-6990 TERRY, BRIAN V. UNITED STATES
17-6993 BROWN, CHAD W. V. UNITED STATES
17-6996 FACEN, TABARI V. UNITED STATES
17-6998 LOVERA, DIANA V. UNITED STATES
17-7001 RUVALCABA-MORALES, RACHEL V. UNITED STATES
17-7004 POSLEY, BRIAN L. V. UNITED STATES
17-7006 CANNET, FRANZ P. V. UNITED STATES
17-7007 DINGLE, LEON V. UNITED STATES
17-7012 TAYLOR, GLORIA P. V. UNITED STATES
17-7014 NWOKEDI, ADOLPHUS V. UNITED STATES
17-7020 SANCHEZ, EDGAR V. MATEVOUSIAN, WARDEN
17-7021 KOONTZ, DONALD S. V. UNITED STATES
17-7023 HERRNANDEZ-QUINTANIA, PEDRO V. UNITED STATES
17-7025 OCHOA-CALEDON, JOSE V. UNITED STATES
17-7029 PILOTO, DARCY V. UNITED STATES
17-7030 BROCK, TROUN V. V. UNITED STATES
17-7032 SPENGLER, ANDREW R. V. CHANDLER, WARDEN
17-7034 BAILEY, DEON A. V. UNITED STATES
17-7048 STURDIVANT, DEVON R. V. UNITED STATES
17-7050 STEWARD, RICKY L. V. UNITED STATES
17-7051 RECENDIS-HERRERA, JUAN L. V. UNITED STATES
17-7052 STEWART, CHARLES H. V. UNITED STATES
17-7069 BELTON, MARCUS V. UNITED STATES
17-7070 BURNS, DEBORAH B. V. UNITED STATES
17-7073 SANDOVAL-ENRIQUE, MANUEL V. UNITED STATES

The petitions for writs of certiorari are denied.

17-249 YOUNG, AMY, ET AL. V. BORDERS, SHERIFF, ET AL.

The motion of Rutherford Institute for leave to file a brief

as *amicus curiae* is granted. The motion of Second Amendment Foundation, Inc. for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-346 TOUCHET, SAUL C. V. ESTIS WELL SERVICE, ET AL.

The motion of Seafarers' Rights International for leave to file a brief as *amicus curiae* is granted. The motion of Global Maritime Ministries, Inc. New Orleans for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-445 WESTBROOKS, WARDEN V. ALLEN, WILLIAM G.

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

17-447 WINDOW ROCK UNIFIED SCH. DIST. V. REEVES, ANN, ET AL.

The motion of National School Boards Association, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

17-465 PROPERTY OWNERS V. US FISH AND WILDLIFE, ET AL.

The motion of Property and Environment Research Center for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-517 UPPAL, NEELAM V. HEALTH LAW FIRM

The motion of respondent for attorney's fees and sanctions is denied. The petition for a writ of certiorari is denied.

17-551 TAFT, FOSTER V. NABISCO, ET AL.

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

17-569 BAMBERGER ROSENHEIM, LTD. V. OA DEVELOPMENT, INC.

The motion of The Center for Arbitration and Dispute Resolution In Israel for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-606 COOPER, GARTH V. COUNTRYWIDE HOME LOANS, ET AL.

The petition for a writ of certiorari before judgment is denied.

17-613 SHAO, LINDA V. WANG, TSAN-KUEN

The motion of Mothers of Lost Children for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-627 SPRINT COMMUNICATIONS CO. V. CENTURYTEL OF CHATHAM, ET AL.

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

17-652 HENRY, MARIE V. MT. DORA, FL, ET AL.

The motion of The National Bar Association for leave to file a brief as *amicus curiae* is granted. The motion of National Association for Public Defense for leave to file a brief as *amicus curiae* is granted. The motion of National Juvenile Defender Center for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

17-6318 JONES, JAMES E. V. USDC SC

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

17-6488) REYNOLDS, NATHANAEL L. V. SOUTH CAROLINA, ET AL.

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17-6489) REYNOLDS, NATHANAEL L. V. SOUTH CAROLINA, ET AL.

17-6516 AMIR-SHARIF, LaKEITH R. V. TX DCJ, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8. As the petitioners have repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioners unless the docketing fees required by Rule 38(a) are paid and the petitions are submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

17-6530 GARDNER, STEVEN V. CAPOZZA, WARDEN, ET AL.

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

17-6546 YORK, REGINALD R. V. CALIFORNIA

17-6581 WANZER, JERRY V. PERALTA, JESUS M., ET AL.

17-6582 WANZER, JERRY V. GLOOR, DEBRA, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

17-6599 LOGAN, NICKIE R. V. DIST. ATT'Y OF ALLEGHENY CTY.

The petition for a writ of certiorari before judgment is denied.

17-6685 HAMILTON, JAN B. V. COLORADO

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept

any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

17-6741 SCARPA, GREGORY V. UNITED STATES

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

17-6840 WARREN, JOHNNY S. V. UNITED STATES

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

17-6850 HAMMONS, BRITT J. V. UNITED STATES

17-6932 KUTZ, ERIC S. V. UNITED STATES

The petitions for writs of certiorari are denied. Justice Gorsuch took no part in the consideration or decision of these petitions.

17-6958 CARY, JERRY L. V. PEARSON, WARDEN

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

17-6963 PORTER, RICHARD V. FOX, WARDEN, ET AL.

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

17-7008 HENTHORN, HAROLD V. UNITED STATES

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

HABEAS CORPUS DENIED

17-6903 IN RE ARTHUR ROUSE

17-6920 IN RE DeANGELO JONES

17-6939 IN RE MASAO YONAMINE

17-6951 IN RE TED OSWALD

17-7049 IN RE ALPHONSO SANDERS

17-7077 IN RE GARVESTER BRACKEN

17-7119 IN RE JARON R. BRICE

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

17-588 IN RE AJAY KAJLA

17-631 IN RE MICHAEL C. TURZAI, ET AL.

17-6336 IN RE DANTE KEELING

17-6613 IN RE TARYN CHRISTIAN

The petitions for writs of mandamus are denied.

17-6510 IN RE TERRY G. WATSON

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

17-6544 IN RE STEPHEN F. ULRICH

The motion of petitioner for leave to proceed *in forma*

pauperis is denied, and the petition for a writ of mandamus and/or prohibition is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

17-6648 IN RE LAKESHA NORINGTON

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

REHEARINGS DENIED

16-1468 KERNAN, SEC., CA DOC V. CUERO, MICHAEL D.

16-6372 WILSON, JOHN J. V. CARLOS, JUAN, ET AL.

16-8062 OKON, ENAMIDEM C. V. DOOLEY, WARDEN

16-8580 BENTZ, LEONARD J. V. NEVADA

16-8925 REDRICK, ROGER V. UNITED STATES

16-8959 HASTYE, ALTON V. TOLSON, DIANA

16-9028 ANDOE, JOHNNY R. V. OTTER, C. L., ET AL.

16-9031 LIN, CHAO H., ET UX. V. TD WATERSTONE

16-9037 IN RE STEVEN W. BONILLA

16-9059 IN RE SAMUEL A. McCORMICK

16-9078 RUDGE, WILLIAM J. V. STUART, FL

16-9120 McSMITH, DEREK L. V. BANK OF AMERICA

16-9272 ROBINSON, KATHERINE B., ET AL. V. DEA, ET AL.

16-9293 SAIDIN, MOHAMMAD V. NEGRON, SAM, ET AL.

16-9426 WILSON, JOHNER T. V. SHULTZ, LON W.

16-9530 DAKER, WASEEM V. GEORGIA

16-9531 DAKER, WASEEM V. GEORGIA
16-9532 DAKER, WASEEM V. GEORGIA
16-9565 IN RE CHRISTOPHER PARKER
16-9684 TIBBS, MARK V. MARYLAND
17-193 DUNN, COMM'R, AL DOC V. MADISON, VERNON
17-213 YU, XIAO-YING V. MD DEPT. OF HEALTH, ET AL.
17-256 SHAO, LINDA V. McMANIS FAULKNER, LLP, ET AL.
17-280 PURPURA, NICHOLAS V. CHRISTIE, GOV. OF NJ, ET AL.
17-337 BENT, MICHAEL S. V. LASHWAY, PATRICIA, ET AL.
17-347 VILLARREAL, ALBERTO A. V. TEXAS
17-484 GOSSAGE, HENRY E. V. MERIT SYSTEMS PROTECTION BOARD
17-488 HENDRIX, KIMBERLY D. V. WAL-MART STORES, ET AL.
17-495 DONNELL, LAMON S. V. UNITED STATES
17-5009 BLACK, JASON V. SUTTON, WARDEN
17-5027 STECHAUNER, MATTHEW C. V. SMITH, WARDEN
17-5130 PELINO, VITO A. V. HENS-GRECO, KATHRYN, ET AL.
17-5133 MURPHY, CRAIG D. V. DEPT. OF EDUCATION
17-5160 AGUILAR, MANUEL M. V. UNITED STATES
17-5208 SCHUMAKER, BRIAN W. V. UNITED STATES
17-5241 SCHWERS, CLAYTON A. V. ALBUQUERQUE, NM, ET AL.
17-5361 COOK, ROBERT C. V. MICHIGAN
17-5375 GOUCH-ONASSIS, DEBORAH E. V. UNITED STATES
17-5376 GIRMA, LULU V. EEOC
17-5528 ALMENDAREZ, MICHAEL A. V. DAVIS, DIR., TX DCJ
17-5533 IN RE KEVIN POLLINS
17-5547 WAHEED, ABUWI M. V. NEW YORK, NY, ET AL.
17-5625 CANNON, JOHN C. V. DAVIS, DIR., TX DCJ
17-5667 AUSTIN, STEVE V. FLORIDA

17-5705 HAWKINS, JAMES V. TENNESSEE
17-5797 MARSHALL, DARRELL L. V. DETROIT, MI, ET AL.
17-5827 IN RE TOMMY PHILLIPS
17-5842 WOODSON, CARSTON M. V. UNITED STATES
17-5843 WOODSON, CARSTON M. V. UNITED STATES
17-5844 WOODSON, CARSTON M. V. UNITED STATES
17-5845 WOODSON, CARSTON M. V. UNITED STATES
17-5846 WOODSON, CARSTON M. V. UNITED STATES
17-5849 MILLER, TERESA V. WEST VIRGINIA
17-5851 MAJOR, SARGENT K. V. WYOMING
17-5858 WOODSON, CARSTON M. V. UNITED STATES
17-5859 WOODSON, CARSTON M. V. UNITED STATES
17-5864 ZIRUS, SCOTT A. V. TEXAS
17-5914 IN RE MICHAEL A. KENNEDY
17-5924 STANDRIDGE, RICHARD E. V. SHARTLE, WARDEN
17-5940 SAMPLE, MICHAEL V. TENNESSEE
17-5979 NORWOOD, MARION A. V. UNITED STATES
17-6060 IN RE JAMES R. YOUNG
17-6066 KANDI, EMIEL A. V. UNITED STATES
17-6073 SHARIATI, MAHBOBEH V. UNITED STATES
17-6094 SMORYNSKI, DANIEL V. UNITED STATES
17-6131 MALEKPOUR, SHAHRAM V. CHAO, SEC. OF TRANSP.
17-6191 FLUKER, FELECIA V. BRENNAN, POSTMASTER GEN.
17-6272 MAGGIO, MICHAEL A. V. UNITED STATES
17-6319 LOWE, KEVIN V. UNITED STATES

The petitions for rehearing are denied.

17-309 SNYDER, DALE, ET AL. V. ACORD CORP., ET AL.
17-5831 KOYLE, SHERWIN V. V. SAND CANYON CORP., ET AL.

The petitions for rehearing are denied. Justice Gorsuch took no part in the consideration or decision of these petitions.

17-5041 JOSEPH, RAFAEL A. V. SAFEHAVEN CEC, ET AL.

17-5311 THORN, DARREL V. MCGARY, MELVIN, ET AL.

The motions for leave to file petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-3005 IN THE MATTER OF DISBARMENT OF ANDRE MICHNIAK

Andre Michniak, of King of Prussia, Pennsylvania, having been suspended from the practice of law in this Court by order of November 27, 2017; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Andre Michniak is disbarred from the practice of law in this Court.

D-3006 IN THE MATTER OF DISBARMENT OF RUFUS SETH WILLIAMS

Rufus Seth Williams, of Philadelphia, Pennsylvania, having been suspended from the practice of law in this Court by order of November 27, 2017; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Rufus Seth Williams is disbarred from the practice of law in this Court.

D-3010 IN THE MATTER OF DISBARMENT OF RAYMOND EDWARD CLUTTS

Raymond Edward Clutts, of Robinson, Illinois, having been suspended from the practice of law in this Court by order of November 27, 2017; and a rule having been issued and served upon

him requiring him to show cause why he should not be disbarred;
and the time to file a response having expired;

It is ordered that Raymond Edward Clutts is disbarred from
the practice of law in this Court.

Per Curiam

SUPREME COURT OF THE UNITED STATESKEITH THARPE *v.* ERIC SELLERS, WARDEN

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

No. 17–6075. Decided January 8, 2018

PER CURIAM.

Petitioner Keith Tharpe moved to reopen his federal habeas corpus proceedings regarding his claim that the Georgia jury that convicted him of murder included a white juror, Barney Gattie, who was biased against Tharpe because he is black. See Fed. Rule Civ. Proc. 60(b)(6). The District Court denied the motion on the ground that, among other things, Tharpe’s claim was procedurally defaulted in state court. The District Court also noted that Tharpe could not overcome that procedural default because he had failed to produce any clear and convincing evidence contradicting the state court’s determination that Gattie’s presence on the jury did not prejudice him. See *Tharpe v. Warden*, No. 5:10–cv–433 (MD Ga., Sept. 5, 2017), App. B to Pet. for Cert. 19.

Tharpe sought a certificate of appealability (COA). The Eleventh Circuit denied his COA application after deciding that jurists of reason could not dispute that the District Court’s procedural ruling was correct. See *Tharpe v. Warden*, 2017 WL 4250413, *3 (Sept. 21, 2017). The Eleventh Circuit’s decision, as we read it, was based solely on its conclusion, rooted in the state court’s factfinding, that Tharpe had failed to show prejudice in connection with his procedurally defaulted claim, *i.e.*, that Tharpe had “failed to demonstrate that Barney Gattie’s behavior ‘had substantial and injurious effect or influence in determining the jury’s verdict.’” *Ibid.* (quoting *Brecht v. Abrahamson*, 507 U. S. 619, 637 (1993)).

Per Curiam

Our review of the record compels a different conclusion. The state court’s prejudice determination rested on its finding that Gattie’s vote to impose the death penalty was not based on Tharpe’s race. See *Tharpe v. Warden*, No. 93–cv–144 (Super. Ct. Butts Cty., Ga., Dec. 1, 2008), App. F to Pet. for Cert. 102. And that factual determination is binding on federal courts, including this Court, in the absence of clear and convincing evidence to the contrary. See 28 U. S. C. §2254(e)(1). Here, however, Tharpe produced a sworn affidavit, signed by Gattie, indicating Gattie’s view that “there are two types of black people: 1. Black folks and 2. Niggers”; that Tharpe, “who wasn’t in the ‘good’ black folks category in my book, should get the electric chair for what he did”; that “[s]ome of the jurors voted for death because they felt Tharpe should be an example to other blacks who kill blacks, but that wasn’t my reason”; and that, “[a]fter studying the Bible, I have wondered if black people even have souls.” App. B to Pet. for Cert. 15–16 (internal quotation marks omitted). Gattie’s remarkable affidavit—which he never retracted—presents a strong factual basis for the argument that Tharpe’s race affected Gattie’s vote for a death verdict. At the very least, jurists of reason could debate whether Tharpe has shown by clear and convincing evidence that the state court’s factual determination was wrong. The Eleventh Circuit erred when it concluded otherwise.

The question of prejudice—the ground on which the Eleventh Circuit chose to dispose of Tharpe’s application—is not the only question relevant to the broader inquiry whether Tharpe should receive a COA. The District Court denied Tharpe’s Rule 60(b) motion on several grounds not addressed by the Eleventh Circuit. We express no view of those issues here. In light of the standard for relief from judgment under Rule 60(b)(6), which is available only in “‘extraordinary circumstances,’” *Gonzalez v. Crosby*, 545 U. S. 524, 536 (2005), Tharpe faces a high bar in showing

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that jurists of reason could disagree whether the District Court abused its discretion in denying his motion. It may be that, at the end of the day, Tharpe should not receive a COA. And review of the denial of a COA is certainly not limited to grounds expressly addressed by the court whose decision is under review. But on the unusual facts of this case, the Court of Appeals' review should not have rested on the ground that it was indisputable among reasonable jurists that Gattie's service on the jury did not prejudice Tharpe.

We therefore grant Tharpe's motion to proceed *in forma pauperis*, grant the petition for certiorari, vacate the judgment of the Court of Appeals, and remand the case for further consideration of the question whether Tharpe is entitled to a COA.

It is so ordered.

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SUPREME COURT OF THE UNITED STATES

KEITH THARPE v. ERIC SELLERS, WARDEN

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

No. 17–6075. Decided January 8, 2018

JUSTICE THOMAS, with whom JUSTICE ALITO and JUSTICE GORSUCH join, dissenting.

If bad facts make bad law, then “unusual facts” inspire unusual decisions. *Ante*, at 3. In its brief *per curiam* opinion, the Court misreads a lower court’s opinion to find an error that is not there, and then refuses to entertain alternative grounds for affirmance. The Court does this to accomplish little more than a do-over in the Court of Appeals: As it concedes, petitioner Keith Tharpe faces a “high bar” on remand to obtain even a certificate of appealability (COA). *Ante*, at 2.

One might wonder why the Court engages in this pointless exercise. The only possible explanation is its concern with the “unusual facts” of this case, specifically a juror affidavit that expresses racist opinions about blacks. The opinions in the affidavit are certainly odious. But their odiousness does not excuse us from doing our job correctly, or allow us to pretend that the lower courts have not done theirs.

The responsibility of courts is to decide cases, both usual and unusual, by neutrally applying the law. The law reflects society’s considered judgments about the balance of competing interests, and we must respect those judgments. In bending the rules here to show its concern for a black capital inmate, the Court must think it is showing its concern for racial justice. It is not. Its summary vacatur will not stop Tharpe’s execution or erase the “unusual fac[t]” of the affidavit. It will only delay justice for Jaquelin Freeman, who was also black, who is ignored by the

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majority, and who was murdered by Tharpe 27 years ago. I respectfully dissent.

I

The Court’s terse opinion tells the reader that this case involves a petitioner, a juror, an affidavit, and a prejudice determination. But it involves much more than that. This case also has a victim, a second affidavit, numerous depositions, factfinding by a state court, and several decisions from federal judges that provide multiple grounds for denying a COA. I will briefly provide this omitted context.

A

Keith Tharpe’s wife, Migrisus, left him in 1990. Despite a no-contact order, Tharpe called her and told her that if she wanted to “play dirty” he would show her “what dirty was.” *Tharpe v. Warden*, 834 F. 3d 1323, 1325 (CA11 2016). The next morning, Tharpe ambushed his wife and her sister, Jaquelin Freeman, as they drove to work, pulling his truck in front of their car and forcing them to stop. Tharpe aimed a shotgun at the car and ordered his wife to get into his truck. He then told Freeman that he was going to “f— [her] up” and took her to the rear of his truck. *Ibid.* Tharpe shot Freeman, rolled her body into a ditch, reloaded, and shot her again, killing her. After murdering Freeman, Tharpe kidnaped and raped his wife, leaving Freeman’s body lying in the ditch. Freeman’s husband found her a short time later, while driving their children to school.

A jury convicted Tharpe of malice murder and two counts of aggravated kidnaping. After hearing the evidence, the jury needed less than two hours to return a unanimous sentence of death. As aggravating factors, the jury found that Tharpe murdered Freeman while committing two other capital felonies—the aggravated kidnapings of his wife and Freeman—and that the murder was outra-

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geously or wantonly vile, horrible, or inhuman.

B

More than seven years after his trial, Tharpe’s lawyers interviewed one of his jurors, Barney Gattie. The resulting affidavit stated that Gattie knew Freeman, and that her family was “what [he] would call a nice [b]lack family.” *Tharpe v. Warden*, No. 5:10–cv–433 (MD Ga., Sept. 5, 2017), App. B to Pet. for Cert. 15. The affidavit continued that, in Gattie’s view, “there are two types of black people: 1. Black folks and 2. Niggers.” *Ibid.* Tharpe “wasn’t in the ‘good’ black folks category,” according to the affidavit, and if Freeman had been “the type Tharpe is, then picking between life and death for Tharpe wouldn’t have mattered so much.” *Id.*, at 16. But because Freeman and her family were “good black folks,” the affidavit continued, Gattie thought Tharpe “should get the electric chair for what he did.” *Ibid.* Gattie’s affidavit went on to explain that “[a]fter studying the Bible,” he had “wondered if black people even have souls.” *Ibid.* The affidavit also noted that some of the other jurors “wanted blacks to know they weren’t going to get away with killing each other.” *Ibid.*

A couple of days later, the State obtained another affidavit from Gattie. In that second affidavit, Gattie stated that he “did not vote to impose the death penalty because [Tharpe] was a black man,” but instead because the evidence presented at trial justified it and because Tharpe showed no remorse. Record in No. 5:10–cv–433 (MD Ga., June 21, 2017) (Record), Doc. 77–3, p. 2. The affidavit explained that Gattie had consumed “seven or more beers” on the afternoon he signed the first affidavit. *Ibid.* Although he had signed it, he “never swore to [it] nor was [he] ever asked if [the] statement was true and accurate.” *Id.*, at 3. He also attested that many of the statements in the first affidavit “were taken out of context and simply not accurate.” *Ibid.* And he felt that the lawyers who took it

“were deceiving and misrepresented what they stood for.” *Id.*, at 5.

A state postconviction court presided over Gattie’s deposition. Gattie again testified that, although he signed the affidavit, he did not swear to its contents. Gattie also testified that when he signed the affidavit he had consumed “[m]aybe a 12 pack, [and] a few drinks of whiskey, over the period of the day.” *Id.*, Doc. 15–8, p. 80. Tharpe’s lawyers did not question Gattie about the contents of his first affidavit at the deposition. They instead spent much of the deposition asking Gattie unrelated questions about race, which the state court ruled irrelevant—like whether he was familiar with Uncle Tom’s Cabin or whether his granddaughter would play with a black doll. The lawyers’ failure to address the contents of Gattie’s first affidavit troubled the state court. Just before it permitted Gattie to leave, the court advised Tharpe’s lawyers that it might “totally discoun[t]” Gattie’s first affidavit, and it again invited them to ask Gattie questions about its contents. *Id.*, at 105. Tharpe’s lawyers declined the opportunity.

The state court also heard deposition testimony from ten of Tharpe’s other jurors and received an affidavit from the eleventh. None of the jurors, two of whom were black, corroborated the statements in Gattie’s first affidavit about how some of the jurors had considered race. The ten jurors who testified all said that race played no role in the jury’s deliberations. The eleventh juror did not mention any consideration of race either.

C

Tharpe sought state postconviction relief. One of his claims was that “improper racial animus . . . infected the deliberations of the jury.” *Tharpe v. Warden*, 2017 WL 4250413, *1 (CA11, Sept. 21, 2017).

The state court rejected this claim for two reasons. First, Tharpe could not prove juror misconduct because

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Georgia law did not allow parties to impeach a jury verdict with post-trial testimony from jurors. *Tharpe v. Warden*, No. 93-cv-144 (Super. Ct. Butts Cty., Ga., Dec. 1, 2008), App. F to Pet. for Cert. 99–101. Second, Tharpe had procedurally defaulted his claim because he had failed to raise it on direct appeal, and he could not establish cause and prejudice to overcome that default. *Id.*, at 102. Tharpe’s allegation of ineffective assistance of counsel was insufficient to establish cause because he had “failed to establish the requisite deficiency or prejudice.” *Ibid.* And Tharpe failed to establish prejudice because the state court credited Gattie’s testimony that he had not relied on race when voting to sentence Tharpe. *Id.*, at 102–103.

D

Tharpe then raised his juror-bias claim in a federal petition for a writ of habeas corpus. The United States District Court for the Middle District of Georgia denied his claim as procedurally defaulted. The District Court acknowledged that ineffective assistance of counsel can provide cause to overcome a procedural default, but it explained that Tharpe “fail[ed] to provide any details regarding this allegation.” 2017 WL 4250413, *2. The District Court concluded that Tharpe “ha[d] not established that his counsels’ ineffectiveness constituted cause to overcome the procedural defaul[t]” and that he “failed to show actual prejudice.” *Ibid.*

Tharpe did not seek a COA on his juror-bias claim. The United States Court of Appeals for the Eleventh Circuit affirmed the District Court’s decision, *Tharpe*, 834 F. 3d 1323, and this Court denied certiorari, *Tharpe v. Sellers*, 582 U. S. ____ (2017).

In June 2017, Tharpe moved to reopen his federal habeas proceedings under Federal Rule of Civil Procedure 60(b). He pointed to this Court’s recent decisions in *Buck v. Davis*, 580 U. S. ____ (2017), and *Pena-Rodriguez v.*

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Colorado, 580 U. S. ____ (2017), as extraordinary circumstances that entitled him to relief. According to Tharpe, *Buck* established that extraordinary circumstances are present when a defendant was sentenced due to his race and new law provides an opportunity to consider the merits of his previously defaulted, race-based sentencing claim. *Pena-Rodriguez* supplied that new law, Tharpe argued, because it held that a state no-impeachment rule must yield when there is a “clear statement that indicates [a juror] relied on racial stereotypes or animus to convict a criminal defendant.” 580 U. S., at ____ (slip op., at 17).

The District Court denied Tharpe’s motion. It first explained that *Pena-Rodriguez* announced a new procedural rule that does not apply retroactively on federal collateral review. App. B to Pet. for Cert. 6–14. It alternatively deferred to the state court’s finding that Tharpe could not prove cause or prejudice to overcome his procedural default. *Id.*, at 18–21. After the depositions of Gattie and ten other jurors, the state court credited Gattie’s testimony that he did not vote for death based on race. *Id.*, at 21. The District Court deferred to that credibility determination, and nothing in *Pena-Rodriguez* undermined that determination. App. B to Pet. for Cert. 19–21.

The Eleventh Circuit denied a COA. It explained that the District Court had concluded in its first decision that Tharpe failed to prove cause and prejudice. 2017 WL 4250413, *2. The District Court had later rejected Tharpe’s Rule 60(b) motion both because *Pena-Rodriguez* was not retroactively applicable on federal collateral review and because it “presumed the correctness” of the state court’s finding that Tharpe failed to “establish cause and prejudice.” 2017 WL 4250413, *2. The Eleventh Circuit then offered two reasons why Tharpe was not entitled to a COA. First, Tharpe had not “made a substantial showing of the denial of a constitutional right.”

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Id., at *3 (quoting 28 U. S. C. §2253(c)(2)). “As the [state court] and the District Court found, Tharpe failed to demonstrate that Barney Gattie’s behavior ‘had substantial and injurious effect or influence in determining the jury’s verdict.’” 2017 WL 4250413, *3 (quoting *Brecht v. Abrahamson*, 507 U. S. 619, 637 (1993)). “Nor,” the Eleventh Circuit continued, “has Tharpe shown that ‘jurists of reason would find it debatable whether the district court was correct in its procedural ruling.’” 2017 WL 4250413, *3 (quoting *Slack v. McDaniel*, 529 U. S. 473, 484 (2000)).¹

Shortly before his execution, Tharpe filed a petition for a writ of certiorari and a stay application with this Court. We issued a stay.

II

To obtain a COA, Tharpe must show “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right” and “that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.*, at 484. The Court is not willing to say that Tharpe can satisfy this standard. See *ante*, at 3 (“It may be that, at the end of the day, Tharpe should not receive a COA”). Instead, its opinion makes two moves. First, it “read[s]” the decision below as resting “solely” on Tharpe’s “fail[ure] to show prejudice” to overcome his procedural default. *Ante*, at 1. It does not read the decision as reaching cause, and it declines to consider that or any other alternative reason to affirm the Eleventh Circuit. See *ante*, at 1–2. Second, the Court holds, contrary to the Eleventh Circuit, that jurists of reason could debate whether Tharpe has proven prejudice. See *ante*, at 2. Neither of the Court’s moves is justified.

¹The Eleventh Circuit also held that Tharpe had not exhausted his *Pena-Rodriguez* claim in state court. 2017 WL 4250413, *4.

A

1

The majority misreads the decision below as resting “solely” on prejudice. See *ante*, at 1. The Eleventh Circuit addressed cause as well.

The Eleventh Circuit first held that Tharpe had failed to make a “‘substantial showing of the denial of a constitutional right,’” explaining that he had “failed to demonstrate that . . . Gattie’s behavior ‘had substantial and injurious effect or influence in determining the jury’s verdict.’” 2017 WL 4250413, *3 (quoting *Brecht, supra*, at 637). Then the Eleventh Circuit alternatively held that Tharpe had not “shown that ‘jurists of reason would find it debatable whether the district court was correct in its procedural ruling.’” 2017 WL 4250413, *3 (quoting *Slack, supra*, at 484). The “procedural ruling” of the District Court rested on both cause and prejudice—as the Eleventh Circuit explained earlier in its opinion, quoting the District Court at length. See 2017 WL 4250413, *2. Indeed, neither party suggests that the Eleventh Circuit’s decision did not reach cause, and both parties briefed the issue to this Court. See Brief in Opposition 16–17; Reply Brief 7–8. The Court’s reading of the decision below is untenable.

Even if its reading were tenable, the Court does not explain why the strong medicine of a summary disposition is warranted here. Summary decisions are “rare” and “usually reserved by this Court for situations in which . . . the decision below is clearly in error.” *Schweiker v. Hansen*, 450 U. S. 785, 791 (1981) (Marshall, J., dissenting). The majority’s reading of the decision below is not the better one, much less the clearly correct one. By adopting the least charitable reading of the Eleventh Circuit’s decision, the majority “disrespects the judges of the courts of appeals, who are appointed and confirmed as we are.” *Wellons v. Hall*, 558 U. S. 220, 228 (2010) (Scalia, J., dissenting). This Court should not “vacate and send back

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their authorized judgments for inconsequential imperfection of opinion—as though we were schoolmasters grading their homework.” *Ibid.* In fact, “[a]n appropriately self-respecting response to today’s summary vacatur would be summary reissuance of the same opinion,” *ibid.*, with a sentence clarifying that the Eleventh Circuit agrees with the District Court’s decision on cause.

2

Putting aside its misreading of the decision below, the Court inexplicably declines to consider alternative grounds for affirmance. The Court acknowledges that our review “is certainly not limited to grounds expressly addressed by the court whose decision is under review.” *Ante*, at 3. But the Court does not explain why it nonetheless limits itself to the question of prejudice. The Court’s self-imposed limitation is inexcusable given that Tharpe’s collateral challenges to his sentence have lasted 24 years, the Court’s failure to consider alternative grounds has halted an imminent execution, the alternative grounds were reached below, several of them were briefed here, and many of them are obviously correct. In fact, the District Court identified two grounds for denying Tharpe relief that no reasonable jurist could debate.

First, no reasonable jurist could argue that *Pena-Rodriguez* applies retroactively on collateral review. *Pena-Rodriguez* established a new rule: The opinion states that it is answering a question “left open” by this Court’s earlier precedents. 580 U. S., at ____ (slip op., at 13). A new rule does not apply retroactively unless it is substantive or a “watershed rul[e] of criminal procedure.” *Teague v. Lane*, 489 U. S. 288, 311 (1989) (plurality opinion). Since *Pena-Rodriguez* permits a trial court “to consider [certain] evidence,” 580 U. S., at ____ (slip op., at 17), and does not “alte[r] the range of conduct or the class of persons that the law punishes,” *Schriro v. Summerlin*, 542 U. S. 348,

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353 (2004), it cannot be a substantive rule.² And Tharpe does not even attempt to argue that *Pena-Rodriguez* established a watershed rule of criminal procedure—a class of rules that is so “narrow” that it is “unlikely that any has yet to emerge.” *Schriro, supra*, at 352 (quoting *Tyler v. Cain*, 533 U. S. 656, 667, n. 7 (2001); alterations omitted). Nor could he. Not even the right to have a jury decide a defendant’s eligibility for death counts as a watershed rule of criminal procedure. *Schriro, supra*, at 355–358.³

Second, no reasonable jurist could argue that Tharpe demonstrated cause for his procedural default. The only cause that Tharpe raised in state court was ineffective assistance of counsel. The state court rejected this claim because Tharpe presented only a conclusory allegation to support it. No reasonable jurist could debate that decision. Nor could a reasonable jurist debate the cause argument that Tharpe raises here. In his reply brief in support of certiorari in this Court, Tharpe argues that he

²Moreover, because the state court considered Tharpe’s evidence of racial bias anyway, despite Georgia’s no-impeachment rule, no reasonable jurist could argue that *Pena-Rodriguez* presents an extraordinary circumstance that entitles Tharpe to reopen his judgment under Rule 60(b). He has already received the benefit of the rule announced in *Pena-Rodriguez*.

³Even if Tharpe could show that *Pena-Rodriguez* is retroactive under *Teague* and could overcome his procedural default, no reasonable jurist could argue that he has stated a valid juror-bias claim on the merits. The state court concluded that his claim failed in the absence of any admissible evidence to support it. See *Tharpe v. Warden*, No. 93–cv–144 (Super. Ct. Butts Cty., Ga., Dec. 1, 2008), App. F to Pet. for Cert. 102. To obtain federal habeas relief, Tharpe must show that this merits decision “was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.” 28 U. S. C. §2254(d)(1). Since the state court issued its decision nearly a decade before *Pena-Rodriguez*, no reasonable jurist could argue that the state court’s decision was contrary to clearly established law at “the time the state court render[ed] its decision.” *Cullen v. Pinholster*, 563 U. S. 170, 182 (2011) (internal quotation marks omitted).

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did not have to raise his claim of juror bias on direct appeal. Reply Brief 7–8. But Tharpe never raised this argument in state court, so the state court did not err in failing to accept it. Nor did the District Court abuse its discretion in failing to address it, since Tharpe merely mentioned it in a footnote in his reply brief where he was explaining the state court’s decision. And even if Tharpe’s description of Georgia law is correct and relevant in a federal habeas proceeding, he offers no explanation for why he waited seven years after his trial to obtain Gattie’s affidavit. See *Fults v. GDCP Warden*, 764 F.3d 1311, 1317 (CA11 2014). In short, Tharpe has not offered a viable argument on cause in any court.

B

On the one issue it does address—prejudice—the Court falters again. Its conclusion that reasonable jurists could debate prejudice plows through three levels of deference. First, it ignores the deference that appellate courts must give to trial courts’ findings on questions of juror bias. See *Skilling v. United States*, 561 U. S. 358, 396 (2010) (“In reviewing claims [of juror bias], the deference due to district courts is at its pinnacle: ‘A trial court’s findings of juror impartiality may be overturned only for manifest error’” (quoting *Mu’Min v. Virginia*, 500 U. S. 415, 428 (1991))). Then, it ignores the deference that federal habeas courts must give to state courts’ factual findings. See 28 U. S. C. §2254(e)(1). Finally, it ignores the deference that federal appellate courts must give to federal district courts’ discretionary decisions under Rule 60(b). See *Browder v. Director, Dept. of Corrections of Ill.*, 434 U. S. 257, 263, n. 7 (1978).

With all this deference, no reasonable jurist could debate the question of prejudice. The state court’s finding that Tharpe “failed to show that any alleged racial bias of Mr. Gattie’s was the basis for sentencing” him, App. F to

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Pet. for Cert. 102, was supported by ample evidence. Gattie testified in his second affidavit that he did not impose a death sentence because of Tharpe's race. He also denied having sworn to the first affidavit and explained that he had consumed a substantial amount of alcohol on the day he signed it. Gattie's testimony was consistent with the testimony of the other ten jurors deposed in front of the trial court, each of whom testified that they did not consider race and that race was not discussed during their deliberations. To be sure, there was some evidence cutting the other way—most notably, Gattie's first affidavit. But the state court heard all of the evidence, saw the witnesses' demeanor, and decided to credit Gattie's testimony that he did not vote for the death penalty because of Tharpe's race. Even if we were reviewing the state court directly, its finding would be entitled to substantial deference. See *Skilling, supra*, at 396.

But we are not reviewing the state court directly. Instead, the relevant question is whether a reasonable jurist could argue that the District Court abused its discretion by concluding that the state court's decision to credit Gattie's testimony has not been rebutted by clear and convincing evidence. Even if "[r]easonable minds reviewing the record might disagree about" the evidence, "on habeas review that does not suffice to supersede the [state] court's credibility determination." *Rice v. Collins*, 546 U. S. 333, 341–342 (2006). And even if we might have made a different call, abuse-of-discretion review means we cannot "substitute [our] judgment for that of the district court." *Horne v. Flores*, 557 U. S. 433, 493 (2009) (BREYER, J., dissenting). Under these standards, no reasonable jurist could argue that Tharpe rebutted the state court's decision by clear and convincing evidence, much less that the District Court's deference to the state court's credibility determination was an abuse of discretion.

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III

The Court is cognizant of the weakness of Tharpe’s claims. It openly anticipates that he will not be able to obtain a COA, which makes sense given the insurmountable barriers he faces on remand. Moreover, the Court’s preliminary decision that reasonable jurists could debate prejudice says little about how a court of appeals could ever rule in Tharpe’s favor on the merits of that question, given the multiple levels of deference that apply. At most, then, the Court’s decision merely delays Tharpe’s inevitable execution.

The Court tries to justify its decision “on the unusual facts of this case.” *Ante*, at 3. But there is nothing unusual about deferring to a district court’s decision to defer to a state court’s credibility findings. This case involves a mine-run denial of a COA by a lower court on the eve of an execution, one that this Court routinely denies certiorari to address.

Today’s decision can be explained only by the “unusual fac[t]” of Gattie’s first affidavit. *Ibid.* The Court must be disturbed by the racist rhetoric in that affidavit, and must want to do something about it. But the Court’s decision is no profile in moral courage. By remanding this case to the Court of Appeals for a useless do-over, the Court is not doing Tharpe any favors. And its unusual disposition of his case callously delays justice for Jaquelin Freeman, the black woman who was brutally murdered by Tharpe 27 years ago. Because this Court should not be in the business of ceremonial handwringing, I respectfully dissent.