

(ORDER LIST: 568 U.S.)

MONDAY, NOVEMBER 5, 2012

ORDERS IN PENDING CASES

12M40 ABED, AMAR K. V. BLEDSOE, WARDEN

12M41 WRIGHT, MARK V. HAMRICK, WARDEN

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

11-11084 TORMENIA, VINCENT V. CONTURSI, FRANK A., ET AL.

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is denied.

12-138 BG GROUP PLC V. ARGENTINA

The Solicitor General is invited to file a brief in this case expressing the views of the United States.

12-467 SIBLEY, MONTGOMERY B. V. DC BD. OF ELECTIONS

The motion of petitioner to expedite consideration of the petition for a writ of certiorari is denied.

12-5131 TUCKER, MATTHEW V. COSTELLO, PATRICIA K.

12-5375 CORNICK, JULE V. YU, BYONG

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

12-6095 PARKS, JOSEPH R. V. GA SEXUAL OFFENDER REGISTRATION

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until November 26, 2012, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

**CERTIORARI DENIED**

12-30           SETTENBRINO, SUSAN V. BARROGA-HAYES, FORENTINA  
12-171          BRANTLEY, ROB, ET AL. V. NBC UNIVERSAL, ET AL.  
12-194          MORRISON, AARON N. V. ALABAMA  
12-216          KLEIN, DAVID, ET AL. V. JACKSON, MI  
12-269          MAHNCKE, RUSSELL V. NEW YORK  
12-280          WILEY, DAVID W. V. ILLINOIS, ET AL.  
12-283          SIMMONS, CLARISSA V. NOVARTIS PHARMACEUTICAL CORP.  
12-285          STAMPS, ALLEN, ET UX. V. GWINNETT COUNTY SCHOOL, ET AL.  
12-293          HAMNER, RUSSELL W. V. UNITED STATES  
12-314          LAWLOR, ROBERT V. CONNELLY, JOHN  
12-323          HALL, STEVEN V. KENTUCKY  
12-334          STIERHOFF, NEIL V. UNITED STATES  
12-349          McREADY, EDWARD C. V. O'MALLEY, GOV. OF MD, ET AL.  
12-368          HILLIARD, BONITA G. V. JACOBS, TIMOTHY E.  
12-384          HARJO, JOHN V. FLORIDA  
12-395          SPEAR, OBER E. V. MONTANA, ET AL.  
12-397          ZEMECKIS, MISTY M. V. GLOBAL CREDIT & COLLECTION CORP.  
12-405          STARR, CATHERINE M. V. UNITED STATES  
12-413          JESSE E. BRANNEN, III, P.C. V. UNITED STATES  
12-419          WALDEN, JOSEPH B. V. UNITED STATES  
12-423          WINTERROTH, DAVID K. V. CIR  
12-430          LEITMAN, LORN V. UNITED STATES  
12-5443         HANSON, RONALD, ET UX. V. CHANG, JUDGE, ETC., ET AL.  
12-5590         DUARTE-SABORI, FRANCISCO J. V. UNITED STATES  
12-5595         KEEN, WILLIE D. V. UNITED STATES  
12-5761         JOHNSON, BILLY F. V. LINDAMOOD, WARDEN  
12-6064         McFADDEN, VINCENT V. MISSOURI

12-6069 CABALLERO, ALEJANDRO F. V. HARRINGTON, WARDEN  
12-6072 REYES, MARGARITO M. V. THALER, DIR., TX DCJ  
12-6077 HEYNE, JUSTIN C. V. FLORIDA  
12-6086 ANNABEL, ROBERT V. WOLFENBARGER, WARDEN  
12-6099 BROUSSARD, BRAD A. V. THALER, DIR., TX DCJ  
12-6100 BURGHARDT, DARRYL V. CALIFORNIA  
12-6101 HUNTER, EUGENE V. BONDI, ATT'Y GEN. OF FL  
12-6102 WILSON, TONY A. V. GAVAGNI, MICHELLE A., ET AL.  
12-6123 CARABALLO, MONSERRATE O. V. FLORIDA  
12-6125 GRAY, BRIAN K. V. PALMER, WARDEN, ET AL.  
12-6162 TROTTER, KYUNG L. V. AYRES, MICHAEL D., ET AL.  
12-6181 SONACHANSINGH, DAVID V. LEE, SUPT., GREEN HAVEN  
12-6188 RAMSEY, JAMES W. V. CURTIN, WARDEN  
12-6238 KRONENBERG, MICHELLE L. V. OHIO  
12-6239 McCORMICK, DALE E. V. SCHMIDT, DEREK  
12-6246 DELESTON, DWAYNE V. RIVERA, WARDEN, ET AL.  
12-6247 DANIELS, JAMES L. V. JONES, WARDEN  
12-6261 MOSS, BOYCE V. TUCKER, SEC., FL DOC, ET AL.  
12-6263 SMITH-JETER, WANDA E. V. COLUMBIA, SC  
12-6264 JOHNSON, RAYMOND A. V. OGLETREE, ET AL.  
12-6270 JACKSON, GARY V. PERRY, WARDEN  
12-6272 SCHNEIDER, RALPH V. McDANIEL, WARDEN, ET AL.  
12-6279 JOHNSON, RAYMOND A. V. HENDRICK AUTO GROUP, ET AL.  
12-6285 WATTS, DANIEL V. LOUISIANA  
12-6286 WILKENS, ROBERT V. LAFLER, WARDEN  
12-6293 NUNES, DEVON V. HOLDER, ATT'Y GEN.  
12-6300 LYONS, COZELL V. KING, RON  
12-6302 CROFT, DAVID V. HENRY, WARDEN, ET AL.

12-6308 WILLIAMS, TERRENCE M. V. LOUISIANA  
12-6316 BAILEY, JERRY D. V. SMITH, WARDEN  
12-6361 BOLES, RUSSELL M. V. NEWTH, DEVIN, ET AL.  
12-6364 GRUPEE, AUSTIN V. UNITED STATES  
12-6371 STEPHENSON, GERALD J. V. SMITH, JOHN  
12-6388 WALLACE, KENNETH V. LEMPKE, SUPT., FIVE POINTS  
12-6395 HOLLINS, MARSHALL C. V. ILLINOIS  
12-6403 FREEMAN, ROBERT J. V. CLEMENTS, EXEC. DIR., CO DOC  
12-6405 BROWN, FAYE, ET AL. V. KELLER, SEC., NC DOC, ET AL.  
12-6411 MORGAN, O'DELL D. V. WEST VIRGINIA  
12-6420 VAN HOOSE, MEREDITH V. SEIFERT, WARDEN  
12-6438 SARTAIN, DENNIS V. UNITED STATES  
12-6449 AARON, BILLY C. V. HARRIS, GRANT, ET AL.  
12-6457 STATON, LEROY V. REYNOLDS, WARDEN  
12-6458 SALTER, ERSKINE D. V. UNITED STATES  
12-6467 BROWN, DEVIN L. V. BAENEN, WARDEN  
12-6471 GREENE, ELAINE V. DEPT. OF JUSTICE  
12-6472 SPEAR, STEVEN A. V. TUCKER, SEC., FL DOC  
12-6473 RODIS, RODNEY L. V. CUCCINELLI, ATT'Y GEN OF VA  
12-6492 VANG, DA V. HOOVER, MICHAEL W.  
12-6498 FAULK, LEWIS V. LAMAS, SUPT., ROCKVIEW, ET AL.  
12-6500 GROGANS, STEVE E. V. UNITED STATES  
12-6502 LOZANO-GALVAN, ESTABAN A. V. UNITED STATES  
12-6514 SARGENT, RIK V. TUCKER, SEC., FL DOC  
12-6537 McCLAIN, CLARENCE L. V. UNITED STATES  
12-6549 NORWOOD, MICHAEL D. V. UNITED STATES  
12-6563 FINGER, TERRY E. V. ANDERSON COUNTY, TN, ET AL.  
12-6567 DEL TORO-BARBOZA, ADIN V. UNITED STATES

12-6587 ANDREWS, BRYAN K. V. UNITED STATES  
12-6590 GARCIA-SANTOS, FEDERICO E. V. UNITED STATES  
12-6594 NELSON, ALBERT V. UNITED STATES  
12-6597 THOMPSON, JERRY L. V. HOLDER, ATT'Y GEN., ET AL.  
12-6603 CAVAZOS, JUAN M. V. UNITED STATES  
12-6607 CARR, DANIEL G. V. UNITED STATES  
12-6609 THOMAS, SETH L. V. UNITED STATES  
12-6617 WEDDERBURN, ANDREW M. V. UNITED STATES  
12-6618 DEL TORO-BARBOZA, ISRAEL V. UNITED STATES  
12-6619 WILLIAMS, TERRANCE W. V. UNITED STATES  
12-6624 JIANG, JUJU V. UNITED STATES  
12-6626 CEPHUS, JUSTIN V. UNITED STATES  
12-6630 ESPINOZA, VINCENTE C. V. UNITED STATES  
12-6631 CHIARADIO, DAVID V. UNITED STATES  
12-6632 ROEMMELE, BERNARD V. UNITED STATES  
12-6648 DELACRUZ, MICHAEL J. V. UNITED STATES  
12-6650 BAWGUS, LONNIE W. V. UNITED STATES  
12-6651 ADKINS, BRADLEY S. V. UNITED STATES

The petitions for writs of certiorari are denied.

12-6254 MCCARTHY, PATRICK V. SERVITTO, DEBORAH A., ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

12-6495 GROVES, GENE S. V. SHINSEKI, SEC. OF VA

12-6520 FOUCHE, PIERRE V. GUTTIERREZ, WARDEN, ET AL.

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

12-6595 ORIAKHI, DANIEL V. WILSON, 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.

12-6639 JAMES, STEVEN P. V. UNITED STATES

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

**HABEAS CORPUS DENIED**

12-6633 IN RE MICHAEL A. SINGLETON

12-6673 IN RE HOANH RCOM

The petitions for writs of habeas corpus are denied.

**MANDAMUS DENIED**

12-5473 IN RE RONALD HANSON, ET UX.

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

**REHEARINGS DENIED**

11-9810 SIMMONS, ELLA L. V. BRAVERMAN, LESLIE C.

11-10022 WEST, DOUG V. OKLAHOMA

11-10163 DAVIS, IVAN B. V. ROZUM, SUPT., SOMERSET, ET AL.

11-11115 WILLIAMS, FRANKLIN L. V. EDENFIELD, WARDEN

12-5084 TENERELLI, ANTHONY J. V. UNITED STATES

12-5274 ROBINSON, EDDIE V. CONNELL, SUPT., ONEIDA, ET AL.

12-5314 SANGALAZA, CLEVER V. WELLS FARGO NATIONAL BANK

The petitions for rehearing are denied.

12-33 DOLENZ, BERNARD V. UNITED STATES

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

**ATTORNEY DISCIPLINE**

D-2690

IN THE MATTER OF DISBARMENT OF ROBERT VINCENT MITCHELL

Robert Vincent Mitchell, of Pittsburgh, Pennsylvania, having been suspended from the practice of law in this Court by order of August 31, 2012; and a rule having been issued and served upon him requiring him to show cause why he should not be disbarred; and a response having been filed;

It is ordered that Robert Vincent Mitchell is disbarred from the practice of law in this Court.

Per Curiam

**SUPREME COURT OF THE UNITED STATES**

STEVEN LEFEMINE, DBA COLUMBIA CHRISTIANS  
FOR LIFE *v.* DAN WIDEMAN ET AL.

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

No. 12–168. Decided November 5, 2012

PER CURIAM.

This case concerns the award of attorney’s fees in a suit alleging unconstitutional conduct by government officials. The United States Court of Appeals for the Fourth Circuit held that a plaintiff who secured a permanent injunction but no monetary damages was not a “prevailing party” under 42 U. S. C. §1988, and so could not receive fees. That was error. Because the injunction ordered the defendant officials to change their behavior in a way that directly benefited the plaintiff, we vacate the Fourth Circuit’s decision and remand for further proceedings.

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Petitioner Steven Lefemine and members of Columbia Christians for Life (CCL) engage in demonstrations in which they carry pictures of aborted fetuses to protest the availability of abortions. On November 3, 2005, Lefemine and about 20 other CCL members conducted such a demonstration at a busy intersection in Greenwood County, South Carolina. Citing complaints about the graphic signs, a Greenwood County police officer informed Lefemine that if the signs were not discarded, he would be ticketed for breach of the peace. Lefemine objected, asserting that the officer was violating his First Amendment rights, but the threat eventually caused him to disband the protest. See *Lefemine v. Davis*, 732 F. Supp. 2d 614, 617–619 (SC 2010).

A year later, an attorney for Lefemine sent a letter to

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Dan Wideman, the sheriff of Greenwood County, informing him that the group intended to return to the same site with the disputed signs. The letter cautioned that further interference would cause Lefemine “to pursue all available legal remedies.” *Id.*, at 619. Chief Deputy Mike Frederick responded that the police had not previously violated Lefemine’s rights, and warned that “should we observe any protester or demonstrator committing the same act, we will again conduct ourselves in exactly the same manner: order the person(s) to stop or face criminal sanctions.” *Ibid.* Out of fear of those sanctions, the group chose not to protest in the county for the next two years. See *ibid.*

On October 31, 2008, Lefemine filed a complaint under 42 U. S. C. §1983 against several Greenwood County police officers alleging violations of his First Amendment rights. Lefemine sought nominal damages, a declaratory judgment, a permanent injunction, and attorney’s fees. See 732 F. Supp. 2d, at 620. Ruling on the parties’ dueling motions for summary judgment, the District Court determined that the defendants had infringed Lefemine’s rights. See *id.*, at 620–625. The court therefore permanently enjoined the defendants “from engaging in content-based restrictions on [Lefemine’s] display of graphic signs” under similar circumstances. *Id.*, at 627. The court, however, refused Lefemine’s request for nominal damages, finding that the defendants were entitled to qualified immunity because the illegality of their conduct was not clearly established at the time. See *ibid.* The court as well denied Lefemine’s request for attorney’s fees under §1988, stating that “[u]nder the totality of the facts in this case the award of attorney’s fees is not warranted.” *Ibid.*

The Fourth Circuit affirmed the denial of attorney’s fees on the ground that the District Court’s judgment did not make Lefemine a “prevailing party” under §1988. 672

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F. 3d 292, 302–303 (2012).<sup>\*</sup> The court reasoned that the relief awarded did not “‘alte[r] the relative positions of the parties’”: The injunction prohibited only “unlawful, but not legitimate, conduct by the defendant[s],” and merely “ordered [d]efendants to comply with the law and safeguard [Lefemine’s] constitutional rights in the future. No other damages were awarded.” *Ibid.* Lefemine sought a writ of certiorari to review the Fourth Circuit’s determination that he was not a prevailing party under §1988.

The Civil Rights Attorney’s Fees Awards Act of 1976, 90 Stat. 2641, 42 U. S. C. §1988, allows “the prevailing party” in certain civil rights actions, including suits brought under §1983, to recover “a reasonable attorney’s fee.” A plaintiff “prevails,” we have held, “when actual relief on the merits of his claim materially alters the legal relationship between the parties by modifying the defendant’s behavior in a way that directly benefits the plaintiff.” *Farrar v. Hobby*, 506 U. S. 103, 111–112 (1992). And we have repeatedly held that an injunction or declaratory judgment, like a damages award, will usually satisfy that test. See, e.g., *Rhodes v. Stewart*, 488 U. S. 1, 4 (1988) (*per curiam*).

Under these established standards, Lefemine was a prevailing party. Lefemine desired to conduct demonstrations in Greenwood County with signs that the defendant police officers had told him he could not carry. He brought this suit in part to secure an injunction to protect himself from the defendants’ standing threat of sanctions. And he succeeded in removing that threat. The District Court held that the defendants had violated Lefemine’s rights and enjoined them from engaging in similar conduct in the

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<sup>\*</sup>The defendants did not appeal the District Court’s judgment that they had violated Lefemine’s First Amendment rights, so the Court of Appeals took as a given that a violation had occurred. See 672 F. 3d, at 299, n. 5.

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future. Contrary to the Fourth Circuit’s view, that ruling worked the requisite material alteration in the parties’ relationship. Before the ruling, the police intended to stop Lefemine from protesting with his signs; after the ruling, the police could not prevent him from demonstrating in that manner. So when the District Court “ordered [d]efendants to comply with the law,” 672 F. 3d, at 303, the relief given—as in the usual case involving such an injunction—supported the award of attorney’s fees.

Because Lefemine is a “prevailing party,” he “should ordinarily recover an attorney’s fee unless special circumstances would render such an award unjust.” *Hensley v. Eckerhart*, 461 U. S. 424, 429 (1983) (internal quotation marks omitted). Neither of the courts below addressed whether any special circumstances exist in this case, and we do not do so; whether there may be other grounds on which the police officers could contest liability for fees is not a question before us. Accordingly, the petition for certiorari is granted, the judgment of the Fourth Circuit is vacated, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*