(ORDER LIST: 601 U.S.)

TUESDAY, FEBRUARY 20, 2024

APPEAL -- SUMMARY DISPOSITION

23-467 GARCIA, BENANCIO V. HOBBS, SEC. OF STATE OF WA

The judgment is vacated, and the case is remanded to the United States District Court for the Western District of Washington with instructions to enter a fresh judgment from which an appeal may be taken to the United States Court of Appeals for the Ninth Circuit.

ORDERS IN PENDING CASES

23A596 KELLY, MEGHAN V. USDC ED PA

The application for leave to file a petition for a writ of certiorari in excess of the page limits addressed to the Chief Justice and referred to the Court is denied.

23M49 IN RE WILLIAM B. JOLLEY

The motion for leave to proceed as a veteran is granted.

23M50 DAVIS, KEITH V. KLINEFELTER, SUPT., HOUTZDALE

23M51 HENNING, EUGENIE V. JACKSON, TN

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

23M52 AKERMAN, MARTIN V. MERIT SYSTEMS PROTECTION BOARD

23M53 AKERMAN, MARTIN V. UNITED STATES

The motions for leave to proceed as a veteran are denied.

23M54 NORMAN, STEPHANIE V. H. LEE MOFFITT CANCER CENTER

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

23M55 O'REILLY, MATTHEW V. TSOTTLES, ADAM, ET AL.

23M56 DOUGHERTY, MARLENE A. V. DEPT. OF HOMELAND, ET AL.

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

23M57 BARNES, DIAMOND L. V. ADKINS, WARDEN

The motion for leave to proceed as a veteran is denied. Justice Barrett took no part in the consideration or decision of this motion.

23M58 WRIGHT, PAUL V. McDONOUGH, SEC. OF VA

The motion for leave to proceed as a veteran is denied.

23M59 GAMBLE, TYRE V. BRITTAIN, SUPT., FRACKVILLE

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

23M60 R. R. V. WV DEPT. OF HEALTH, ET AL.

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

141, ORIG. TEXAS V. NEW MEXICO, ET AL.

The motion of Texas and New Mexico for divided argument is granted.

22-1025 GONZALEZ, SYLVIA V. TREVINO, EDWARD, ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

22-1079 TRUCK INSURANCE EXCHANGE V. KAISER GYPSUM CO., ET AL.

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

decision of these motions.

22-7860 CVJETICANIN, MARIJAN V. UNITED STATES

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

23-235) FDA, ET AL. V. ALLIANCE HIPPOCRATIC MEDICINE, ET AL.
)
23-236) DANCO LABORATORIES, L.L.C. V. ALLIANCE HIPPOCRATIC MEDICINE, ET AL.

The motion of Former Commissioners of the U.S. Food and Drug Administration for leave to file a brief as *amici curiae* out of time is granted. The motion of American Bar Association for leave to file a brief as *amicus curiae* out of time is denied. The motion of Missouri, et al. for leave to intervene is denied. The motion of Gregory J. Roden as Next Friend of Americans en ventre sa mere for leave to intervene is denied.

23-367 STARBUCKS CORP. V. McKINNEY, M. KATHLEEN

The motion of petitioner to dispense with printing the joint appendix is granted.

23-370 ERLINGER, PAUL V. UNITED STATES

The motion of the Solicitor General for divided argument is granted.

23-719 TRUMP, DONALD J. V. ANDERSON, NORMA, ET AL.

The motion of United States Justice Foundation and Policy Issues Institute, Inc. for leave to file a brief as *amici curiae* out of time is denied. The motion of Chris Sevier for leave to intervene is denied.

23-5842 KEYES, ELLIS V. USCA 5

23-5961 ROBINSON, MARTIN V. OH CIVIL RIGHTS COMM'N, ET AL.

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

23-6155 WEBB, MIKE V. KIMMEL, JAMES C., ET AL.

23-6338 FISHMAN, MARC V. NEW YORK

23-6519 VAZQUEZ, TONETTE L. V. MAYORKAS, SEC. OF HOMELAND

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until March 12, 2024, 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

23-218 GOODMAN, ADAM M. V. DOLL, DANIEL R.

23-227 MOLINA, SARAH K., ET AL. V. BOOK, DANIEL, ET AL.

23-242 MARTINEZ, JONATHAN M. V. UNITED STATES

23-243 RUSH, BARBARA, ET AL. V. O'MALLEY, COMM'R, SOCIAL SEC.

23-267 WILLIAMS, MARILYN V. BOEHRINGER INGELHEIM, ET AL.

23-274 FELKNER, WILLIAM V. NAZARIAN, JOHN. ET AL.

23-291 LITTLE, EDWARD V. DOGUET, ANDRE', ET AL.

23-315 VIRNETX INC. V. MANGROVE PARTNERS MASTER, ET AL.

23-317 CRANDEL, OTIS, ET AL. V. HALL, DALENA, ET AL.

23-332 CYPRESS-FAIRBANKS INDEP. SCH. V. ROE, JANE

23-362 HOPMAN, PERRY V. UNION PACIFIC RAILROAD

23-387 CARLISLE, TAYLOR, ET AL. V. LOPINTO, SHERIFF, ET AL.

23-389 REILLY, COLLEEN, ET AL. V. HARRISBURG, PA, ET AL.

23-437 ANDERSON, ANTHONY A. V. UNITED STATES

23-444 MOSS, STEVEN L. V. MINIARD, WARDEN

23-472 BONNER, DORA L. V. TRIPLE S MGMT. CORP., ET AL.

23-486) POWELL, SIDNEY, ET AL. V. WHITMER, GOV. OF MI, ET AL.
)
23-497) WOOD, L. LIN V. WHITMER, GOV. OF MI, ET AL.

23-507 SIMPSON-VLACH, RITA C., ET AL. V. MI DEPT. OF ED., ET AL.

23-531 CARPENTER, TIMOTHY I. V. UNITED STATES

23-560 McCALLISTER, KATHLEEN A. V. EVANS, ROGER A., ET AL.

23-563 ABDULKY, OBAIDA, ET AL. V. LUBIN & MEYER, P.C., ET AL.

23-566 MASSIE, THOMAS, ET AL. V. JOHNSON, MIKE, ET AL.

23-570 AVERY, JACQUELINE V. SEDGWICK CLAIMS MGMT., ET AL.

23-573 VENESKEY, TINA B. V. SULIER, MICHAEL K.

23-575 TEHRANI, FLEUR V. HAMILTON TECHNOLOGIES LLC

23-579 SHENZEN SANLIDA ELEC., ET AL. V. WHIRLPOOL CORP., ET AL.

23-580 O'BRIEN, LISA, ET AL. V. USDC SD NY

23-581 THOMPSON, JOEY D. V. THOMPSON, ASIA

23-584 SNYDER, ROBERT R. V. CALIFORNIA

23-585 FORDHAM, JOHN D, V. GA DEPT. OF ADMIN., ET AL.

23-586 UNITED BEHAVIORAL HEALTH, ET AL. V. D. K., ET AL.

23-588 MIRANDA, JESUS V. O'MALLEY, COMM'R, SOCIAL SEC.

23-589 PARIKH, OXANA N., ET AL. V. PARIKH-SMITH, TINA, ET AL.

23-590 ALEMAN, BONIFACIO R., ET AL. V. BESHEAR, GOV. OF KY, ET AL.

23-591 MILEY, ALTHEA V. BURNS, DEBORAH J., ET AL.

23-594 HUNT, CHRISTOPHER M. V. DEUTSCHE BANK TRUST CO.

23-595 HALL, PETER R. V. FULTON, MICHAEL J. GEOFFREY

23-597 MAYFIELD, ROBIN, ET AL. V. BUTLER SNOW, L.L.P., ET AL.

23-598 ABING, CHESTER N., ET AL. V. EVERS, JAMES F., ET AL.

23-599 GLADDEN, MIRIAM V. WOODFORD, RAYNA, ET AL.

23-603 THOMAS, JEFFREY G. V. CA DEPT. OF JUSTICE, ET AL.

23-604 JACOB, LEON P. V. TEXAS

23-607 GLOVER, MORRIS S. V. COHEN, DANIEL E., ET AL.

23-609 SALGUERO, FRANDER V. COURT OF APPEAL OF CA, ET AL.

23-610 SALGUERO, FRANDER V. CALIFORNIA

23-611 MARTINEZ, ADRIAN V. JENNEIAHN, SEAN, ET AL.

23-613 SOTO SOTO, LUIS, ET AL. V. CARRASQUILLO, YASHIRA Q.

23-614 ROCKY BRANCH TIMBERLANDS V. UNITED STATES, ET AL.

23-615 CASTLEMAN, JOHN F., ET UX. V. BURMAN, DENNIS L.

23-619 PUERTO RICO SUPPLIES, ET AL. V. BAUTISTA CAYMAN ASSET CO.

23-623 AKERMAN, MARTIN V. NEVADA NATIONAL GUARD

23-627 PARKER, CHAD, ET AL. V. GOV. OF PA, ET AL.

23-630 PIETRANGELO, JAMES E. V. SUNUNU, GOV. OF NH, ET AL.

23-632 WARBIRD ADVENTURES, INC. V. FAA

23-633 HIGHTSHOE, EDDIE J. V. O'MALLEY, COMM'R, SOCIAL SEC.

23-634 BURNS, POLLYANNA, ET AL. V. SERVICE EMPLOYEES INT'L, ET AL.

23-637 ZHENG, JINGJING, ET VIR V. SHADY GROVE FERTILITY

23-639 FERGUSON, THOMAS D. V. HAMM, COMM'R, AL DOC

23-642 KARSJENS, KEVIN S., ET AL. V. HARPSTEAD, JODI, ET AL.

23-646 TINIUS, DEVON, ET AL. V. CHOI, LUKE, ET AL.

23-647 KING, ADRIENNE S. V. META PLATFORMS, INC.

23-651 LOWERY, JOHN V. PARRIS, WARDEN

23-653 STEVENS, RITCHIE N., ET AL. V. CIR

23-654 LEEAL, MALKA V. NEWREZ LLC, ET AL.

23-656 HAIRSTON, ARTHUR L. V. DEPT. VETERANS AFFAIRS, ET AL.

23-657 MACDONALD, MICHELLE V. MN OFF. OF LAWYERS PROF'L

23-658 MEDICAL TRANSPORTATION V. HARRIS, ISAAC, ET AL.

23-661 TUG HILL OPERATING, LLC V. ROGERS, LASTEPHEN

23-662 FARM CREDIT SERVICES OF AMERICA V. TOPP, WILLIAM H.

23-663 McDUFF, GARY L. V. UNITED STATES

23-667 COLEMAN, BLAIR V. KENDALL, SEC. OF AIR FORCE

23-670 KIRSCHNER, MARC V. JPMORGAN CHASE BANK, ET AL.

23-671 JOHNSON, BYRON V. FREBORG, KAIJA

23-672 ROGERS, ALESSANDRA N. V. RIGGS, STANTON, ET AL.

23-684 KNAPP, ANDREW, ET AL. V. BROWN, JANICE

23-688 KING, TRAVIS S., ET AL. V. DEWS, DeMICHAEL, ET AL.

23-692 MINIX, ZACHARIAH V. KENTUCKY

23-693 SHIH, YI-CHI V. UNITED STATES

23-694 SMITH, SUSAN M. V. O'MALLEY, COMM'R, ET AL.

23-697 EVERS, GOV. OF WI V. DEAN, MICHAEL, ET AL.

23-698 PASADENA, TX V. CROWN CASTLE FIBER

23-705 DECK, STEPHEN R. V. CALIFORNIA

23-706 HEBERT, BRENT, ET AL. V. FMC TECHNOLOGIES, INC.

23-709 JOHNSON, DAVID R. V. ILLINOIS

23-710 NELSON, BRIGITTE V. ACRE MORTGAGE & FIN., ET AL.

23-716 HENRY, SHAWN M. V. UNITED STATES

23-718 HEFFNER, DARRYL V. HEFFNER, TIMOTHY, ET AL.

23-730 PEZHMAN, ANNA V. BLOOMINGDALE'S, INC.

23-731 KYROS LAW P.C., ET AL. V. WORLD WRESTLING ENTERTAINMENT

23-736 GADSON, BERNARD V. UNITED STATES

23-742 KISER, MILAN, ET AL. V. LANGER, CHRIS

23-744 LOPEZ, ARTHUR V. OUR LADY QUEEN OF ANGELS CHURCH

23-747 PIERRE, MARYLIN V. ATTORNEY GRIEVANCE COMM'N OF MD

23-751 0.12 ACRES OF LAND, ET AL. V. COLUMBIA GAS TRANSMISSION, LLC

23-752 Y.Y.G.M. SA V. REDBUBBLE, INC.

23-759 MADDOX, GARY E. V. MD PAROLE COMMISSION, ET AL.

23-760 BAKER, JOHN, ET AL. V. CSX TRANSPORTATION, INC., ET AL.

23-762 SILVERBERG, SAM V. DISTRICT OF COLUMBIA, ET AL.

23-764 FACEBOOK, INC. V. VARGAS, ROSEMARIE, ET AL.

23-765 PATEL, MITAL SUMAN KUMAR V. McDONOUGH, SEC. OF VA

23-767 CRAIN, SHIRLEY V. CRAIN, LISA, ET AL.

23-775 DAVIS, ERICA, ET AL. V. CRANFIELD AEROSPACE SOLUTIONS

23-789 DIRKZWAGER, LARISA V. ARCHER-DANIELS-MIDLAND CO.

23-790 FLINDERS, MATTHEW V. STATE BAR OF CALIFORNIA

23-795 ABELAR, GREGORY, ET AL. V. INT'L BUSINESS MACHINES CORP.

23-807 EL PAPEL, LLC, ET AL. V. SEATTLE, WA, ET AL.

23-5311 HOLMES, C. V. GRANUAILE, LLC, ET AL.

23-5505 WALKER, JACQUES L. V. VIRGINIA

23-5566 ANTHONY, SCOTT A. V. UNITED STATES

23-5743 TAYLOR, XZAVIONE V. UNITED STATES

23-5755 JOSEPH, DEWAYNE V. UNITED STATES

23-5823 GONZALES, RAMIRO F. V. TEXAS

23-5875 VARGAS, ANDRES V. UNITED STATES

23-5890 SMITH, JERRY V. ALABAMA

23-5908 CHOULAT, MICHAEL J. V. UNITED STATES

23-5943 WALKER, SARIA V. UNITED STATES, ET AL.

23-5964 ROGERS, WILLIAM G. V. POUNDS, WARDEN

23-6005 SADEEK, EHAB V. UNITED STATES

23-6008 JOHNSON, MATTHEW V. LUMPKIN, DIR., TX DCJ

23-6083 DETLING, CHALMER V. UNITED STATES

23-6096 OLIVER, THOMAS V. MICHAUD, JOSEPH L., ET AL.

23-6104 McRAE, MICHAEL V. V. UNITED STATES

23-6108 CAVETT, BRYAN S. V. LUMPKIN, DIR., TX DCJ

23-6113 LEWIS, MICHAEL E. V. TEXAS

23-6114 JACKSON, ANDRE V. CALIFORNIA

23-6124 ESTRADA, MOSES V. SUPERIOR COURT OF CA

23-6126 ENGLISH, WAYNE M. V. PARCEL EXPRESS, INC.

23-6127 KARNES, SHAWNA, ET AL. V. MONTENGO, TIFFANY, ET AL.

23-6132 RUSSELL, CHAMONE R. V. JOB AND FAMILY SERVICES, ET AL.

23-6136 LEFTWICH, SHAWN C. V. STATE FARM INS. CO., ET AL.

23-6138 DOE, JOHN V. BALTIMORE COM. COLLEGE, ET AL.

23-6146 RANDOLPH, CATHERINE D. V. USDC MD

23-6153 HARRIS, ISAIAH S. V. HUNT, DEBORAH S., ET AL.

23-6154 DEES, JENNIFER L. V. COLORADO

23-6159 KING, EDDIE J. V. AIKENS, DR., ET AL.

23-6163 AARONOFF, VIDALA V. OLSON, CURTIS

23-6168 RIAZ, SAMREEN V. SUPERIOR COURT OF CA, ET AL.

23-6171 HILL, PATRICK H. V. OKLAHOMA

23-6172 BELL, DeKORRIE K. V. BIRMINGHAM BD. OF EDUCATION

23-6173 AKHAN, AKOSUA A. V. AKHAN, KWESI

23-6174 DOTSON, JESSIE V. TENNESSEE

23-6180 FOLLANSBEE, CLIFFORD A. V. ARIZONA

23-6181 PFEIFER, DERYKE M. V. UNITED STATES

23-6185 WILSON, JABRIL V. STEVENS, WARDEN

23-6189 KLEINMAN, KAREN G. B. V. NORTON, JUDGE, USBC WD MO

23-6190 HUDSON, ARCHER V. DEBOW, D'ARTAGNAN N., ET AL.

23-6192 HOLLAND, DAVID L. V. TEXAS

23-6194 CANALES, CHRISTOPHER A. V. HOFFMAN, ACTING WARDEN

23-6198 PLUMMER, WILLIAM V. WELLPATH, ET AL.

23-6202 GAINES, DAMORIUS D. V. JACKSON, WARDEN

23-6203 GLOVER, JUSTIN V. McGINLEY, SUPT., COAL TOWNSHIP

23-6204 SANCHEZ, ANGEL A. V. CALIFORNIA

23-6208 SCOTT, PLEADRO J. V. MIAMI DADE COUNTY, FL, ET AL.

23-6209 SAVAGE, EDDIE V. SUPREME COURT OF OH

23-6211 HARDRICK, BERNARD A. V. MICHIGAN

23-6214 SEALED V. SEALED

23-6215 D. E. V. RUSSELL CTY. DEPT. OF HR

23-6216 HALL, DANIEL E. V. BROCHU-REYNOLDS, DEVON

23-6222 JOHNSON, CHARLES F. V. BECERRA, SEC. OF H&HS, ET AL.

23-6223 SINDONE, CHRISTOPHER L. V. MI DOC, ET AL.

23-6225 RAMSEY, MICHAEL V. PLATKIN, ATT'Y GEN. OF NJ

23-6227 CORTEZ, JOSE A. V. LUMPKIN, DIR., TX DCJ

23-6228 WILLIAMS, BARBARA B. V. LANE, FRED, ET AL.

23-6229 CARY, ARNOLD A. V. WILLIAMS, DIR., CO DOC, ET AL.

23-6237) EZEANI, GREGORY I. V. ANDERSON, WARDEN, ET AL.
)
23-6294) EZEANI, GREGORY I. V. KELLY, BRIDGETT
)
23-6295) EZEANI, GREGORY I. V. McCLAIN, JEFFREY S.

23-6238 JARVIS, WILLIAM V. DIXON, SEC., FL DOC, ET AL.

23-6239 EVERSON, CHRISTOPHER V. QUIROS, COMM'R, CT DOC, ET AL.

23-6241 MARTINEZ, MARK E. V. HOOKS, SEC., NC DPS

23-6243 BROWN, OFFIE C. V. NC DEPT. OF PUB. SAFETY, ET AL.

23-6248 GUPTE, PRADEEP B. V. DAVIS, KIMBERLY, ET AL.

23-6249 GREER, FLENOID V. MICHIGAN

23-6253 FORD, LARRY D. V. AMERICAN HOMES 4 RENT, ET AL.

23-6254 GRAVES, WILLIAM V. FLORIDA

23-6255 HUNTER, DAVID A. V. LUMPKIN, DIR., TX DCJ

23-6256 BRABHAM, KENNETH R. V. FLORIDA

23-6257 JORDAN, RANDALL S. V. TEXAS

23-6261 SELLERS, TYQASHIA V. UNITED STATES

23-6262 ROBIDEAU, RAYMOND C. V. MINNESOTA

23-6265 STONE, TIMOTHY D. V. TEXAS

23-6266 KERR, JEREMY L. V. POLLEX, ROBERT, ET AL.

23-6267 GONZALEZ, JOSE V. TEXAS

23-6270 FRENCH, TONY V. WASHINGTON

23-6271 MADDOX, TYRONE V. ILLINOIS

23-6273 LUCAS, EUGENE V. OTTINGER, J. N., ET AL.

23-6274 FELIPE, LUCAS R. V. GARLAND, ATT'Y GEN.

23-6280 GASPARD, FELIX I. V. BAC HOME LOANS, ET AL.

23-6281 HOGAN, LAQUINCE T. V. PAYNE, DIR., AR DOC

23-6282 CHASTAIN, CLAY V. BEDFORD REGIONAL WATER AUTH.

23-6283 MITCHELL, STACY A. V. ARKANSAS

23-6284 PONTIER, DAVID V. DANG, JOSEPH

23-6287 MAY, PARNELL R. V. TIMS, KAWHUN, ET AL.

23-6288 VELASQUEZ, CARLOS V. BALDOCK, ROBERT, ET AL.

23-6291 SGROMO, PIETRO P. A. V. SCOTT, LEONARD G., ET AL.

23-6293 HAWKINS, SHALLON V. VANDERGRIFF, WARDEN

23-6296 BAILEY, CHARLES A. V. BLEY, DENNIS

23-6298 SMITH, CHET V. COOK COUNTY, IL

23-6300 PAIVA, RICHARD V. RHODE ISLAND

23-6301 OLDHAM, DELBERT L. V. OKLAHOMA

23-6306 EARL, DEVON A. V. HARRIS, BRANDON, ET AL.

23-6307 McCLUSKEY, VERONICA V. HENDRICKS, WILLIAM, ET AL.

23-6308 GARCIA-PELICO, ARIEL V. NEBRASKA

23-6309 FARRIS, ELVIN V. VECTOR CONSTRUCTION, INC.

23-6312 REESE, ANDRE V. UNITED STATES

23-6316 VINCENT, DANIEL V. WAKEFIELD, SUPT., SMITHFIELD

23-6317 WEST, VICKY V. GARNET HILL HABITATION

23-6321 JOHNSON-LUSTER, BARBARA V. WORMUTH, SEC. OF ARMY

23-6322 OHIO, EX REL. DODSON V. OH DOC, ET AL.

23-6323 DUNCAN, RYAN F. V. FLORIDA

23-6324 BONANNO, LOUIS V. VIRGINIA, ET AL.

23-6325 DOWNS, JAMES E. V. DIXON, SEC., FL DOC

23-6327 GARCIA, NOEL V. PHILADELPHIA DIST. ATT'Y, ET AL.

23-6328 FIELDS, ANDREW V. BOULDIN, PATRICK J., ET AL.

23-6329 FINNEGAN, RUSSELL G. V. CHIDESTER, DAVID L.

23-6334 WOODS, NIRA V. DEPT. OF HOUSING, ET AL.

23-6337 AHMAD, MAHFOOZ V. DAY, COLIN, ET AL.

23-6341 MARTIN, TRAMAINE E. V. FORSHEY, WARDEN

23-6345 SPRING, JEFFREY M. V. GRAY, WARDEN

23-6348 LEANOS, DANIAL V. ILLINOIS

23-6349 KING, DERRICK M. V. BUDGET CAR MART, LLC

23-6350 FRANKLIN, BRADY V. ILLINOIS

23-6352 WILLIAMS, LaDERRIUS V. ILLINOIS

23-6354 EASTERLING, DEVONTE V. MISSISSIPPI

23-6358 BOOKER, DEVADRICK M. V. UNITED STATES

23-6359 NEVINS, DAVIN C. V. UNITED STATES

23-6362 STESHENKO, GREGORY V. FOOTHILL-DE ANZA COLLEGE, ET AL.

23-6363 HINSON, MATTHEW R. V. DIXON, SEC., FL DOC, ET AL.

23-6366 ISLAS, JOSE M. V. DHS/ICE OFFICE OF CHIEF COUNSEL

23-6367 HUNTER, DOMINIQUE V. O'MALLEY, COMM'R, SOCIAL SEC.

23-6376 THORPE, JUDY V. BOARD OF TRUSTEES

23-6378 DIAZ-JARAMILLO, GILMER V. UNITED STATES

23-6379 LaFAIVE, TERRENCE V. RECORDS CUSTODIAN

23-6382 BATISTA-REYES, FRANCISCO V. UNITED STATES

23-6385 GARCIA-VELA, ALFONSO V. UNITED STATES

23-6386 KING, MICHAEL A. V. UNITED STATES

23-6387 LEBEAU, MONTGOMERY V. UNITED STATES

23-6390 RAMIREZ, JOSE G. V. ILLINOIS

23-6391 THOMAS, CHRISTOPHER D. V. HAALAND, SEC. OF INTERIOR

23-6392 WATKINS, PHILLIP V. UNITED STATES

23-6394 TABLACK, ANDREW V. UNITED STATES

23-6396 COVARRUBIAS-MARTINEZ, ELEUTERIO V. UNITED STATES

23-6397 RIVERA, JAIME V. UNITED STATES

23-6400 HEWITT, MICHAEL V. UNITED STATES

23-6402 ORELLANA-SIBRIAN, VIDAL V. UNITED STATES

23-6404 HUNTER, JAMAR V. UNITED STATES

23-6405 ALLEN, BRIAN K. V. UNITED STATES

23-6406 EBERHARDT, JAMAL V. UNITED STATES

23-6408 LaROCHE, JADE V. UNITED STATES

23-6410 PENA-TALAMANTES, PEDRO V. UNITED STATES

23-6411 CORTEZ-GARCIA, GILBERTO S. V. UNITED STATES

23-6412 PAVON-RIVERA, JOSE E. V. UNITED STATES

23-6413 SMITH, DONALD B. V. UNITED STATES

23-6416 SLATER, CARLA V. YELLEN, SEC. OF TREASURY, ET AL.

23-6418 HOLLAND, HARVEY V. UNITED STATES

23-6419 HARRIS, ANTHONY V. UNITED STATES

23-6420 BURGOS, ORLANDO S. V. CAMBOA, WARDEN

23-6421 RIVERA, REMBERTO V. UNITED STATES

23-6422 KRAYNAK, RAYMOND J. V. UNITED STATES

23-6424 FORD, TAQUARIUS K. V. UNITED STATES

23-6425 TAYLOR, CHRISTOPHER D. V. UNITED STATES

23-6429 GAWLIK, JAN M. V. SEMPLE, SCOTT, ET AL.

23-6430 JONES, NICHOLAS D. V. UNITED STATES

23-6432 MARTINEZ, CARLOS V. CALIFORNIA

23-6439 MOTHERSHEAD, JENNIFER L. V. WOFFORD, SUPT., WA CORR. CENTER

23-6440 DE JESUS-FLORES, ISMAEL V. UNITED STATES

23-6441 HERNANDEZ, MARC V. UNITED STATES

23-6442 HERNANDEZ ZARATE, PEDRO V. UNITED STATES

23-6445 SOLOMON, CALVIN V. UNITED STATES

23-6447 SHERMAN, SAMUEL V. UNITED STATES

23-6448 BRUNSON, STEPHEN D. V. UNITED STATES

23-6452 THOMAS, SHANNON R. V. UNITED STATES

23-6453 WELTON, JAMES D. V. UNITED STATES

23-6454 HUTCHINS, DARWIN D. V. UNITED STATES

23-6458 ASTUDILLO-HERRERA, MARIO V. UNITED STATES

23-6460 DUERSON, RICHARD C. V. UNITED STATES

23-6461 JIMENEZ, LUIS A. V. UNITED STATES

23-6466 FLORES, EDGAR L. V. UNITED STATES

23-6470 GATHERCOLE, RICHARD L. V. UNITED STATES, ET AL.

23-6474 DESJARLAIS, COURTNEY R. V. UNITED STATES

23-6475 REDD, DARRIUS D. V. UNITED STATES

23-6476 GREEN, PHILLIP T. V. UNITED STATES

23-6477 HUEY, JAMAILE L. V. UNITED STATES

23-6478 WELKER, MICHAEL A. V. UNITED STATES

23-6479 ROBERTS, STERLING H. V. UNITED STATES

23-6484 SANCHEZ-DELGADO, MIGUEL A. V. UNITED STATES

23-6485 SHAW, KEATON L. V. UNITED STATES

23-6486 SMITH, SCHUYLER A. V. UNITED STATES

23-6488 GARCIA-BERTADILLO, JUAN V. UNITED STATES

23-6489 HARRISON, ROBERT E. V. UNITED STATES

23-6492 HENDERSON, DELONDO V. UNITED STATES

23-6493 WILSON, SHANNON V. UNITED STATES

23-6494 ARMSTRONG, LEWIS D. V. UNITED STATES

23-6495 BURNO, PETER V. UNITED STATES

23-6498 CLAYTON, KEVIN V. UNITED STATES

23-6499 MANNING, PETE V. UNITED STATES

23-6500 SMART, JIMMY L. V. UNITED STATES

23-6502 LAMB, MARWAN L. V. UNITED STATES

23-6503 RIVERA, DAVID V. UNITED STATES

23-6505 VONGPHAKDY, KHEUNGKHAM V. UNITED STATES

23-6520 BENNETT, GARY V. V. UNITED STATES

23-6523 GALLOWAY, MARK D. V. UNITED STATES

23-6526 COATES, LARRY V. UNITED STATES

23-6528 BURGETT, CHARLES L. V. O'MALLEY, COMM'R, SOCIAL SEC.

23-6543 POWERS, ODEIU J. V. DEPT. OF HOMELAND SEC., ET AL.

23-6549 SCOTT, DELON V. UNITED STATES

23-6553 McBRIDE, DANJUAN A. V. VIRGINIA

The petitions for writs of certiorari are denied.

23-325 SC STATE PORTS AUTH., ET AL. V. NLRB, ET AL.

The petition for a writ of certiorari is denied. Justice Kavanaugh would grant the petition for a writ of certiorari.

23-484 TREVINO, JOSE, ET AL. V. PALMER, SUSAN S., ET AL.

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

23-685 DORSEY, DEVAUGHN 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. See 28 U. S. C. §455(b)(3) and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

23-804 LIQUIDIA TECHNOLOGIES, INC. V. UNITED THERAPEUTICS CORPORATION

The petition for a writ of certiorari is denied. Justice Jackson took no part in the consideration or decision of this petition. See 28 U. S. C. §455 and Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2)(d)(ii) and 3B(2)(f)(i).

23-6197 TEED, DANIEL J. V. WARDEN, ALLENWOOD FCI

The motion of petitioner for reconsideration of order denying leave to proceed *in forma pauperis* is granted. The order entered January 8, 2024, is vacated. The petition for a writ of certiorari is denied.

23-6200 GREEN, COURTNEY V. LG ELEC. USA, ET AL.

23-6201 GREEN, COURTNEY V. GENERAL MILLS WORLD HEADQUARTERS

23-6268 GOODEN, CLIFFORD A. V. UNITED STATES, 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.

23-6370 ADAMS, CHARLES D. V. MSPB

23-6371 ADAMS, CHARLES D. V. MSPB

23-6372) ADAMS, CHARLES D. V. MSPB
)
23-6373) ADAMS, CHARLES D. V. MSPB

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

23-6403 FORD, TONY L. 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. See 28 U. S. C. §455(b)(3) and Code of Conduct for

Justices of the Supreme Court of the United States, Canon 3B(2)(e) (prior government employment).

23-6463 ADAMS, CHARLES D. V. MSPB

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*).

HABEAS CORPUS DENIED

23-6539 IN RE JESSE J. CORBIN-BEY

23-6541 IN RE RONALD FREEMAN

23-6544 IN RE MO S. HICKS

23-6552 IN RE VINCENT PISCIOTTA

23-6566 IN RE BRANDON TRAMMEL

23-6595 IN RE REGINAL L. DAVIS

23-6605 IN RE DARIUS LAKE

23-6624 IN RE JOHNNY JONES

23-6627 IN RE REGINALD B. HATTON

The petitions for writs of habeas corpus are denied.

23-6510 IN RE THEODORE C. SHOVE

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

MANDAMUS DENIED

23-673 IN RE JEFFREY L. HILL

23-6212 IN RE JEROME CURRY

23-6233 IN RE PATRICK D. SANTO

23-6272 IN RE BRUCE L. FULLER

23-6290 IN RE PIETRO SGROMO

23-6310 IN RE JOSEPH EMERSON

The petitions for writs of mandamus are denied.

23-608 IN RE JOSEPH GOTHARD, ET AL.

23-680 IN RE FRANDER SALGUERO

23-6191 IN RE COLBY J. HALE

The petitions for writs of mandamus and/or prohibition are denied.

23-6246 IN RE TONYA KNOWLES

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

PROHIBITION DENIED

23-6368 IN RE DAMION HARDY

The petition for a writ of prohibition is denied.

REHEARINGS DENIED

22-7088 GRZESLO, JAMES D. V. FISHER, WARDEN

22-7406 HENRY, SHAWN V. FLORIDA

22-7688 SMARTT, AVERY V. UNITED STATES

22-7778 UEDING, KENNETH V. CO DOC, ET AL.

23-314 BROWN, DEBRA V. FED. NATIONAL MORTGAGE ASSN.

23-316 DAVIS, CURTISS V. BONILLA, PEDRO, ET AL.

23-352 ROGALSKI, CHRISTOPHER A. V. LAUREATE ED., INC.

23-383 YEH HO, KAREN C. V. WELLS FARGO BANK, N.A.

23-5184 MACDONALD, KINLEY V. SUTTON, JUDGE, ET AL.

23-5186 MACDONALD, KINLEY V. LAMBREW, JEANNE, ET AL.

23-5216 MACDONALD, KINLEY V. DUDDY, MICHAEL A., ET AL.

23-5217 MACDONALD, KINLEY V. MAINE

23-5252 FULLER, BRUCE L. V. CALIFORNIA

23-5281 HOLMES, MORRIS S. V. BOWEN, WARDEN

23-5287 IN RE WILLIAM G. HAAKE

23-5346 FARMER, MARCREASE D. V. UNITED STATES

23-5508 IN RE KINLEY MACDONALD

23-5536 MACDONALD, KINLEY V. MAINE

23-5737 WILSON, ROGER V. DEPT. OF JUSTICE, ET AL.

23-5768 ESCALANTE, FRANK N. V. ROBERTSON, WARDEN

23-5849 BROWN, BRYAN H. V. NEW HAMPSHIRE

23-5867 BRYANT, ANITA V. DELAWARE CTY. TREASURER, ET AL.

23-5975 CAPISTRANO, CAESAR M. V. UNITED STATES

23-5999 CHI, ANSON V. UNITED STATES

The petitions for rehearing are denied.

21-1389 BATES, JEREMY V. TRUMP, DONALD J., ET AL.

The motion for leave to file a petition for rehearing is denied.

SUPREME COURT OF THE UNITED STATES

74 PINEHURST LLC, ET AL.
22–1130 *v.*
NEW YORK, ET AL.

335–7 LLC, ET AL.
22–1170 *v.*
CITY OF NEW YORK, NEW YORK, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Nos. 22–1130 and 22–1170. Decided February 20, 2024

The petitions for writs of certiorari are denied.

Statement of JUSTICE THOMAS respecting the denials of certiorari.

Petitioners are owners of small and midsize apartment buildings who challenge New York City's rent stabilization laws. Among other things, they argue that New York City's regulations grant tenants and their successors an indefinite, infinitely renewable lease terminable only for reasons outside of the landlord's control. Petitioners argue that they have suffered a *per se* taking as a result. The constitutionality of regimes like New York City's is an important and pressing question. There are roughly one million rental apartments affected in New York City alone. See Pet. for Cert. in No. 22–1130, p. 1; Brief in Opposition for City of New York et al. in No. 22–1130, p. 4. And, the Courts of Appeals have taken different approaches: The Second Circuit rejected petitioners' takings claims at the pleading stage, but at least one other Court of Appeals has accepted similar claims. Compare 59 F. 4th 557 (CA2 2023) (case below), with *Heights Apartments, LLC* v. *Walz*, 30 F. 4th 720 (CA8 2022).

The pleadings in these petitioners' cases, however, would

complicate our review. The petitioners' complaints primarily contain generalized allegations about their circumstances and injuries. But, to evaluate their as-applied challenges, we must consider whether specific New York City regulations prevent petitioners from evicting actual tenants for particular reasons. Similarly, petitioners' facial challenges require a clear understanding of how New York City regulations coordinate to completely bar landlords from evicting tenants. The pleadings do not facilitate such an understanding. However, in an appropriate future case, we should grant certiorari to address this important question.

SUPREME COURT OF THE UNITED STATES

IN RE MICHAEL BOWE

ON PETITION FOR WRIT OF HABEAS CORPUS

No. 22–7871. Decided February 20, 2024

The petition for a writ of habeas corpus is denied.

Statement of JUSTICE SOTOMAYOR, with whom JUSTICE JACKSON joins, respecting the denial of the petition for a writ of habeas corpus.

Under §2244(b)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), a federal court must dismiss a "claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application." 28 U. S. C. §2244(b)(1). State prisoners seek federal postconviction relief under §2254. Federal prisoners seek postconviction relief under §2255. This petition raises the question whether §2244(b)(1)'s bar, which explicitly references only §2254, also applies to a claim by a *federal* prisoner who brings a successive challenge to his conviction under §2255.

The Government agrees with Bowe that §2244(b)(1)'s plain language covers only challenges by state prisoners under §2254. Three Circuits now agree with that interpretation. See *Jones* v. *United States*, 36 F. 4th 974, 982 (CA9 2022) ("The plain text of §2244(b)(1) by its terms applies only to state prisoners' applications"); *In re Graham*, 61 F. 4th 433, 438 (CA4 2023); *Williams* v. *United States*, 927 F. 3d 427, 434 (CA6 2019). But six Circuits disagree. See *Winarske* v. *United States*, 913 F. 3d 765, 768–769 (CA8 2019); *In re Bourgeois*, 902 F. 3d 446, 447 (CA5 2018); *In re Baptiste*, 828 F. 3d 1337, 1339–1340 (CA11 2016); *United States* v. *Winkelman*, 746 F. 3d 134, 135–136 (CA3 2014); *Gallagher* v. *United States*, 711 F. 3d 315 (CA2 2013); *Taylor* v. *Gilkey*, 314 F. 3d 832, 836 (CA7 2002).

JUSTICE KAVANAUGH has previously expressed his desire for this Court to resolve this split. *Avery* v. *United States*, 589 U. S. ___, ___ (2020) (statement respecting denial of certiorari) (slip op., at 2). I now join him. There is a reason, however, that this is the first case to reach the Court presenting this question since he welcomed petitions on the split in *Avery*. There are considerable structural barriers to this Court's ordinary review via certiorari petition.

A petition cannot reach this Court from the three Circuits that read §2244(b)(1) to apply only to state prisoners. Before a federal prisoner can file a second or successive habeas §2255 motion, a court of appeals must certify it. See 28 U. S. C. §2255(h). When a federal prisoner files a second or successive §2255 motion that raises an issue he has raised previously, neither the court of appeals nor the district court will apply §2244(b)(1)'s bar. If the court of appeals certifies the motion, the district court will decide it on the merits. The Government, because it agrees that §2244(b)(1) applies only to state prisoners, will not seek certiorari and the question will be left behind.

A petition cannot reach this Court from the six Circuits that apply §2244(b)(1) to both state and federal prisoners either. In those Circuits, the court of appeals will apply §2244(b)(1)'s bar and deny certification to any second or successive §2255 motion that raises an issue the prisoner has previously raised. Neither the Government nor the prisoner can seek review of that interpretation of §2244(b)(1) from this Court, however, because AEDPA separately bars petitions for certiorari stemming from "[t]he grant or denial of an authorization by a court of appeals to file a second or successive application." §2244(b)(3)(E).

Here, the Eleventh Circuit denied Bowe authorization to file his successive §2255 motion based on §2244(b)(1). Faced with §2244(b)(3)(E)'s bar on petitioning for review of that denial in this Court, Bowe instead invokes this Court's jurisdiction to entertain original habeas petitions under

§2241(a). The standard for this Court's consideration of an original habeas petition is a demanding one. A petitioner must show both that "adequate relief cannot be obtained in any other form or from any other court" and "exceptional circumstances warrant the exercise of the Court's discretionary powers." Rule 20.4(a). Whether Bowe has met that demanding standard here is questionable, because it is not clear that, absent §2244(b)(1)'s bar, the Eleventh Circuit would have certified his §2255 motion.

The Circuit split, however, is still an important issue for this Court to consider in a more appropriate case. I would welcome the invocation of this Court's original habeas jurisdiction in a future case where the petitioner may have meritorious §2255 claims. The Government also suggests that a court of appeals seeking clarity could certify the question to this Court. In the meantime, in light of the demanding standard for this Court's jurisdiction over original habeas petitions, I encourage the courts of appeals to reconsider this question en banc where appropriate.*

*For instance, it may be unnecessary to revisit the question en banc where statements from prior cases examining §2244(b)(1)'s bar are dicta, rather than holdings. See, *e.g.*, *Williams* v. *United States*, 927 F. 3d 427, 435–436 (CA6 2019) (revisiting the §2244(b)(1) analysis after concluding that statements from two published prior cases were unreasoned dicta); *King* v. *Brownback*, 601 U. S. ___, ___ (2023) (statement of SOTOMAYOR, J., respecting denial of certiorari) (noting different avenues for lower courts to reconsider the application of a statutory bar).

SUPREME COURT OF THE UNITED STATES

MISSOURI DEPARTMENT OF CORRECTIONS *v.* JEAN FINNEY

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MISSOURI, WESTERN DISTRICT

No. 23–203. Decided February 20, 2024

The petition for a writ of certiorari is denied.

Statement of JUSTICE ALITO respecting the denial of certiorari.

I agree that we should not grant certiorari in this case, which is complicated by a state-law procedural issue. But I write because I am concerned that the lower court's reasoning may spread and may be a foretaste of things to come.

In this case, the court below reasoned that a person who still holds traditional religious views on questions of sexual morality is presumptively unfit to serve on a jury in a case involving a party who is a lesbian. That holding exemplifies the danger that I anticipated in *Obergefell* v. *Hodges*, 576 U. S. 644 (2015), namely, that Americans who do not hide their adherence to traditional religious beliefs about homosexual conduct will be "labeled as bigots and treated as such" by the government. *Id.*, at 741 (dissenting opinion). The opinion of the Court in that case made it clear that the decision should not be used in that way, but I am afraid that this admonition is not being heeded by our society.

This case is about Missouri's for-cause dismissal of two jurors based on their religious beliefs. Jean Finney sued her employer, the Missouri Department of Corrections, in state court under the Missouri Human Rights Act, which prohibits employment discrimination on the basis of sex. See Mo. Rev. Stat. §213.055 (Cum. Supp. 2022). "Finney alleged that she is a lesbian who presents masculine"

and that "she was improperly stereotyped and discriminated against based on sex." App. to Pet. for Cert. 67a.

At the beginning of *voir dire*, Finney's attorney asked all the jurors what he characterized as "a tricky question," namely, whether any of them "went to a conservative Christian church" where "it was taught that people [who] are homosexua[l] shouldn't have the same rights as everyone else" because "what they did" was "a sin." *Id.*, at 29a–30a. The question was indeed "tricky" because it conflated two separate issues: whether the prospective jurors believed that homosexual conduct is sinful and whether they believed that gays and lesbians should not enjoy the legal rights possessed by others. In response to this question, some potential jurors raised their hands, and Finney's lawyer then questioned them individually.

During this phase of *voir dire*, Juror 4, a pastor's wife, stated that "homosexuality, according to the Bible, is a sin." *Id.*, at 38a. But she quickly added: "So is gossiping, so is lying." *Ibid.* "[N]one of us can be perfect. And so I'm here because it's an honor to sit in here and to perhaps be a part of, you know, a civic duty." *Ibid.*

Juror 13 similarly stated that he believes homosexuality is a sin because "it's in the Bible." *Id.*, at 33a. But he followed by noting that "every one of us here sins. . . . It's just part of our nature. And it's something we struggle with, hopefully throughout our life." *Id.*, at 33a–34a. And the fact that it is a sin "has really nothing to do with—in a negative way with whatever this case is going to be about." *Id.*, at 34a.

Finney's counsel moved to strike these jurors for cause, arguing that "there's no way . . . somebody [who] looks at a gay person and says . . . you are a sinner" could ever fairly consider a case involving a lesbian plaintiff. *Id.*, at 43a. The trial judge granted that motion. She noted that both jurors said "that they could follow the law," *id.*, at 45a, and

she did not suggest that she disbelieved them. Nevertheless, she concluded that she should "err on the side of caution," and she therefore dismissed Jurors 4 and 13 because there were "enough jurors left" without them. *Ibid.*

The Missouri Court of Appeals affirmed the dismissals for two reasons. First, it reasoned that the jurors' belief "that Finney's conduct was sinful (meaning immoral and wrong)" provided a sustainable ground for "concluding that they could not impartially and fairly decide her claim that she was unlawfully harassed due to her homosexuality—even if those veniremembers claimed that their religious beliefs would not prevent them from serving." *Id.*, at 78a.

Second, the court concluded that the jurors had been dismissed, not on the basis of their religious *status*, but on the basis of their religious *beliefs*. And this distinction, it said, made all the difference because, in its view, while dismissals based on a juror's "status as Christians" must comport with strict scrutiny, dismissals based on a juror's "views" need not. *Id.*, at 81a.

Before us, the Department of Corrections argues that these for-cause dismissals were unconstitutional, and I agree that the Court of Appeals' reasoning raises a very serious and important question that we should address in an appropriate case. The judiciary, no less than the other branches of State and Federal Government, must respect people's fundamental rights, and among these are the right to the free exercise of religion and the right to the equal protection of the laws. When a court, a quintessential state actor, finds that a person is ineligible to serve on a jury because of his or her religious beliefs, that decision implicates fundamental rights.

Under the Free Exercise Clause, state actions that "single out the religious for disfavored treatment" must survive "the 'most rigorous' scrutiny."* *Trinity Lutheran Church of*

*The Department of Corrections relies on the Equal Protection Clause,

Columbia, Inc. v. *Comer*, 582 U. S. 449, 460, 466 (2017) (quoting *Church of Lukumi Babalu Aye, Inc.* v. *Hialeah*, 508 U. S. 520, 546 (1993)). And that is true regardless of whether the differential treatment is predicated on religious status or religious belief. Cf. *Carson* v. *Makin*, 596 U. S. 767, 786 (2022). Our precedents make it clear that distinctions based on "religious *beliefs*," no less than distinctions based on religious status, must "advance 'interests of the highest order' and must be narrowly tailored in pursuit of those interests." *Lukumi*, 508 U. S., at 532, 546 (emphasis added).

Under Missouri law, "[t]he standard for determining whether a juror should be excused for cause is whether his or her views would 'prevent or substantially impair' the performance of duties as a juror." *State* v. *Ramsey*, 864 S. W. 2d 320, 336 (1993) (quoting *State* v. *McMillin*, 783 S. W. 2d 82, 91 (1990)). If a court has a sound basis for concluding that a particular juror's beliefs would "prevent or substantially impair" his or her ability to render impartial justice, dismissal for cause clears that high bar. "The Constitution guarantees both criminal and civil litigants a right to an impartial jury." *Warger* v. *Shauers*, 574 U. S. 40, 50 (2014). So a court has an indisputably significant "interest in [seating] a . . . jury that can properly and impartially apply the law to the facts of the case." *Lockhart* v. *McCree*, 476 U. S. 162, 175 (1986). Jurors are duty-bound to decide cases based on the law and the evidence, and a juror who cannot carry out that duty may properly be excused. But otherwise, I see no basis for dismissing a juror for cause based on religious beliefs.

I would vote to grant review in this case were it not for

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but as the Court has done in prior cases involving claims of religious discrimination, I would analyze the claim here under the Free Exercise Clause. See *Locke* v. *Davey*, 540 U. S. 712, 720, n. 3 (2004); *Johnson* v. *Robison*, 415 U. S. 361, 375, n. 14 (1974); *McDaniel* v. *Paty*, 435 U. S. 618 (1978).

the fact that the Court of Appeals concluded that the Department of Corrections did not properly preserve an objection to dismissal of the two potential jurors and, thus, that their dismissal was reviewable under state law only for plain error. Because this state-law question would complicate our review, I reluctantly concur in the denial of certiorari.

SUPREME COURT OF THE UNITED STATES

COALITION FOR TJ *v.* FAIRFAX COUNTY SCHOOL BOARD

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

No. 23–170. Decided February 20, 2024

The petition for a writ of certiorari is denied.

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting from the denial of certiorari.

The Court of Appeals' decision in this case is based on a patently incorrect and dangerous understanding of what a plaintiff must show to prove intentional race discrimination. A group representing applicants for admission to a highly competitive public magnet school brought suit, claiming that changes in the school's admissions requirements violated the Equal Protection Clause. They alleged that the changes were made for the purpose of discriminating on the basis of race, to the detriment of Asian-American applicants. The District Court found that direct and circumstantial evidence supported that claim and issued an injunction against implementation of the changes. On appeal, however, a divided Fourth Circuit panel reversed and held that the plaintiff's claim failed simply because the challenged changes did not reduce the percentage of Asian-American admittees below the percentage of Asian-American students in the schools in the jurisdictions served by the magnet school. What the Fourth Circuit majority held, in essence, is that intentional racial discrimination is constitutional so long as it is not too severe. This reasoning is indefensible, and it cries out for correction.

I

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Thomas Jefferson High School for Science and Technology (TJ), is a magnet school that draws students from Fairfax County and other jurisdictions in northern Virginia. Widely recognized as one of the best public high schools in the Nation,[1] the school has exceptional resources, including 13 on-campus research laboratories and a student-produced scientific research journal, and it features a rigorous curriculum. All students must study computer science and complete a science or technology research project, and the school offers 26 advanced placement and 20 "post-AP" courses.[2]

The Fairfax County School Board (Board), an elected 12-member body, sets the school's admissions policy. Until 2020, the school had a highly competitive race-blind admissions process that relied heavily on standardized tests. Eighth grade students were eligible to apply if they had at least a 3.0 GPA and had taken a course in algebra. All applicants then took three standardized tests, and after that, the highest ranked students took a fourth exam and submitted two teacher recommendations. The class was selected from that group based on a holistic review of these inputs. Admission to TJ has been very competitive. From 2012 to 2020, the admissions rate varied between 14 and 20 percent.[3]

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[1] U. S. News & World Report, Thomas Jefferson High School for Science and Technology, https://www.usnews.com/education/best-high-schools/virginia/districts/fairfax-county-public-schools/thomas-jefferson-high-school-for-science-and-technology-20461.

[2] Thomas Jefferson High School for Science and Technology 2022–2023, https://tjhsst.fcps.edu/sites/default/files/media/inline-files/2022-23%20TJHSST%20Profile_0.pdf; Fairfax County Public Schools, School Summary, https://schoolprofiles.fcps.edu/schlprfl/f?p=108%3A50%3A%3A%3A%3A%3AP0_CURRENT _SCHOOL_ID%3A300.

[3] See, *e.g.*, TJHSST Admissions Statistics for Class of 2016, https://web.archive.org/web/20150404073947/ https://www.fcps.edu/cco/

In recent years, this race-neutral competitive process produced classes with a high percentage of Asian-American students. In 2019, Asian Americans constituted 71.5 percent of TJ's class, and the 2020 entering class was similar, with a 73 percent Asian-American student body.

Asian-American students, many of whom are immigrants or the children of immigrants,[4] have often seen admission to TJ as a ticket to the American dream. In this respect, their aspirations mirror those of young people from other immigrant groups. Public magnet schools with competitive admissions based on standardized tests have served as engines of social mobility by providing unique opportunities for minorities and the children of immigrants, and these students' subsequent careers have in turn richly contributed to our country's success. For example, one such school in New York City has produced no fewer than nine Nobel laureates.[5]

While Asian Americans have striven to attend TJ, their strong representation in the student body attracted criticism from education officials. In June 2020, TJ students received an email from their principal lamenting that the school did "'not reflect the racial composition in [the Fairfax County Public Schools].'" App. to Pet. for Cert. 90a. A member of the Board wrote in an email that she was "'angry

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pr/tj/tjadmissions0412.pdf; Fairfax County Public Schools, TJHSST Offers Admission to 486 Students, https://web.archive.org/web/20220824023116/https://www.fcps.edu/news/tjhsst-offers-admission-486-students.

[4] The percentage of foreign-born residents in the jurisdictions in question is well above the national average. For example, immigrants make up approximately 30 percent of the population of Fairfax County, which is the most populous county in Virginia. And of the top five countries from which these immigrants came, four (India, Korea, Vietnam, and China) are in Asia. Fairfax County, Our Immigrant Neighbors, https://www.fairfaxcounty.gov/demographics/our-immigrant-neighbors.

[5] Bronx Science Foundation, Celebrating Bronx Science Luminaries, https://alumni.bxscience.edu/hall-of-fame-2.

and disappointed'" at TJ's admissions results and that she expected "'intentful [*sic*] action forthcoming.'" *Id.*, at 100a. That Board member also contacted Scott Braband, the superintendent of the Fairfax County Public Schools, demanding that the Board and the public school system "'be explicit in how we are going to address the underrepresentation of [b]lack and Hispanic students.'" *Ibid.*

The Board answered the call. In December 2020, it adopted the current admissions policy, which no longer relies on standardized tests. The policy fills around 450 of the 550 seats in each incoming class by allocating a specified number of seats to each public middle school in the qualifying region.[6] The remaining 100 seats are open to the entire applicant pool. Applicants for these seats are evaluated based on their grades, a "portrait sheet," a problem-solving essay, and "Experience Factors." The portrait sheet is meant to describe the applicant's "soft" skills (such as the ability to work with other students). The four "Experience Factors" are (1) eligibility for free or reduced price meals; (2) status as an English language learner; (3) eligibility for special education services; and (4) attendance at a public middle school that previously sent few students to TJ.

This new policy had an immediate effect. The percentage of white, Hispanic, and black students increased,[7] while the percentage and number of Asian-American students sharply dropped. In prior years, the offer rate for Asian-American students had hovered between 65 and 75 percent of the school's total offers. Under the new policy, Asian

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[6] Specifically, the number of seats given to each such school is equal to 1.5 percent of the school's eighth grade population.

[7] White students received 22.36 percent of admission offers, up from 17.7 percent. Hispanic students received 11.27 percent of offers, up from 3.3 percent. Black students received 7.9 percent of offers, up from less than 3 percent. Parties' Stipulation of Uncontested Facts in No. 1:21–cv–296 (ED Va., Dec. 3, 2021), ECF Doc. 95, pp. 4–5; 2 App. in No. 22–1280 (CA4, May 11, 2022), ECF Doc. 44–2, pp. 96–98.

Americans received 54.36 percent of the offers. In fact, even though the entering class expanded by 64 seats, the number of seats offered to Asian Americans decreased by 56. *Id.*, at 89a.

B

The Coalition for TJ (Coalition), an organization that includes parents of children who have applied or will apply to TJ, filed suit in Federal District Court under 42 U. S. C. §1983, against the Board. The Coalition alleged that the new admissions policy was based on intentional racial discrimination and therefore violates the Equal Protection Clause.

After a careful review of the record, the District Court agreed. It found that both direct and circumstantial evidence clearly showed that the changes in the admissions process were motivated by racial discrimination. The court found that the Board's decision-making process was "rushed, not transparent, and more concerned with simply doing something to alter the racial balance at TJ than with public engagement." App. to Pet. for Cert. 106a. "The discussion of TJ admissions changes was infected with talk of racial balancing from its inception," and "emails and text messages between Board members and high-ranking [Fairfax County Public School] officials leave no material dispute that, at least in part, the purpose of the Board's admissions overhaul was to change the racial makeup [of] TJ to the detriment of Asian-Americans." *Ibid.* The court also found that "Asian-American students [were] disproportionately harmed by the Board's decision to overhaul TJ admissions," *id.*, at 99a, and it viewed this disparate impact as circumstantial evidence of unlawful discrimination. Based on this view of the evidence, the court granted summary judgment for the Coalition and enjoined use of the new policy.

The Fourth Circuit reversed the District Court in a star-

tling 2 to 1 decision. 68 F. 4th 864 (2023). The panel majority held that the Coalition could not prevail because, as the majority saw things, the new policy "visit[ed] no racially disparate impact on Asian American students" since, even after use of the new policy began, Asian Americans still received 54.36 percent of the admissions offers. *Id.*, at 879–881. This percentage exceeded the percentage of Asian-American students in the applicant pool, and therefore, according to the panel majority's reasoning, Asian-American students had no cause to complain. As the panel majority put it, "an application of elementary arithmetic shows that Asian American students, as a class, experience no material disadvantage under the policy's functioning" and in fact perform "better in securing admission to TJ than students from any other racial or ethnic group." *Id.*, at 882. Although the panel also went on to discuss the Coalition's other evidence, the panel majority concluded that it "could end [its] analysis of the Coalition's Equal Protection Claim at th[at] juncture." *Id.*, at 879–880, 882. As I will explain below, the panel's "elementary arithmetic" was elementary error.

II

The "central purpose" of the Equal Protection Clause is to prohibit "official conduct discriminating on the basis of race." *Washington* v. *Davis*, 426 U. S. 229, 239 (1976); see also, *e.g.*, *Students for Fair Admissions, Inc.* v. *President and Fellows of Harvard College*, 600 U. S. 181, 206 (2023) (SFFA) (the "core purpose" of the Equal Protection Clause is "doing away with all governmentally imposed discrimination based on race" (internal quotation marks and alterations omitted)). When a party claims that a law or policy is racially discriminatory, that party must show that it was adopted for "a racially discriminatory purpose." *Davis*, 426 U. S., at 240. A facially discriminatory policy is automatically subject to heightened review. Even a policy that is

race neutral on its face may be unconstitutional if it is adopted for a "racially discriminatory intent or purpose." *Arlington Heights* v. *Metropolitan Housing Development Corp.*, 429 U. S. 252, 265–266 (1977). A party who challenges such a policy on equal protection grounds can show intentional discrimination by proffering a combination of direct and circumstantial evidence.

In *Arlington Heights*, we listed four factors that, among others, have a bearing on the assessment of circumstantial evidence: (1) the law's historical background, (2) the sequence of events leading to the law's enactment, including any departures from the normal legislative process, (3) the law's legislative history, and (4) whether the law "'bears more heavily on one race than another.'" *Id.*, at 265–269. We have emphasized that disparate impact, by itself, does not establish intentional discrimination. *Davis*, 426 U. S., at 239–240.

The District Court faithfully employed this framework. In addition to noting that the record contains direct evidence of racial intent, the court noted the stark change effected by the new policy, the unusual decisionmaking process that led to the change, and the fact that the change bore "more heavily on" Asian Americans than members of other groups.

The Fourth Circuit panel majority, by contrast, completely distorted the meaning of disparate impact. Even though the new policy bore "more heavily" on Asian-American applicants (because it diminished their chances of admission while improving the chances of every other racial group), the panel majority held that there was no disparate impact because they were still overrepresented in the TJ student body.

That is a clearly mistaken understanding of what it means for a law or policy to have a disparate effect on the members of a particular racial or ethnic group. Under the old policy, each Asian-American applicant had a certain

chance of admission. Under the new policy, that chance has been significantly reduced, while the chance of admission for members of other racial and ethnic groups has increased. Accordingly, the new admissions policy bore more heavily on Asian-American applicants.

The panel majority, however, thought that this did not matter. The simple fact that Asian Americans were still overrepresented in the TJ student body was enough to doom the Coalition's equal protection claim. As far as the Fourth Circuit was concerned, the Board could have adopted a policy designed solely to reduce the Asian-American offer rate and still evaded liability. The holding below effectively licenses official actors to discriminate against any racial group with impunity as long as that group continues to perform at a higher rate than other groups.

That is indefensible. As Judge Rushing explained in dissent, under the Fourth Circuit's view, the Constitution permits "facially neutral laws explicitly motivated by racial discrimination, as long as the law's negative effect on the targeted racial group pushes it no lower than other racial groups." 68 F. 4th, at 904. "It would not matter, for example, if a new law cut a racial group's success rate from 90% to 30% and the legislature was open about its discriminatory purpose, as long as no other racial group succeeded at a higher rate." *Ibid.* This rule defies law and logic.

Consider the following hypothetical case. Suppose that white parents in a school district where 85 percent of the students are white and 15 percent are black complain because 10 of the 12 players (83 percent) on the public high school basketball team are black. Suppose that the principal emails the coach and says: "You have too many black players. You need to replace some of them with white players." And suppose the coach emails back: "Ok. That will hurt the team, but if you insist, I'll do it." The coach then takes five of his black players aside and kicks them off the

team for some contrived—but facially neutral—reason. For instance, as cover, he might institute a policy that reserves a set number of spots on the roster for each of the middle schools who feed to the high school. According to the reasoning of the Fourth Circuit majority, this action would not violate equal protection because the percentage of black players left on the team (approximately 42 percent) would exceed the percentage of black students in the school.[8] I cannot imagine this Court's sustaining such discrimination, but in principle there is no difference between that imaginary case and one now before us.

III

The Fourth Circuit's decision is based on a theory that is flagrantly wrong and should not be allowed to stand. I would not reach the question whether the District Court correctly analyzed all the evidence in this case, but I would summarily reject the holding discussed above. If the District Court's evaluation of the evidence is correct, the panel majority's fallacious reasoning works a grave injustice on diligent young people who yearn to make a better future for themselves, their families, and our society. In addition, the Fourth Circuit's reasoning is a virus that may spread if not promptly eliminated. Indeed, the First Circuit has already favorably cited the Fourth Circuit's analysis to disparage the use of a before-and-after comparison in a similar equal protection challenge to a facially neutral admissions policy. See *Boston Parent Coalition for Academic Excellence Corp.* v. *School Comm. for Boston*, 89 F. 4th 46, 57–58 (2023). And

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[8] Should the Fourth Circuit's reasoning be adopted elsewhere, the same would also hold true in other circuits where the court of appeals considers disparate impact to be a necessary element of a successful challenge to a facially neutral policy. See *Lewis* v. *Ascension Parish School Bd.*, 806 F. 3d 344, 358–359 (CA5 2015); *Doe* v. *Lower Merion School Dist.*, 665 F. 3d 524, 549 (CA3 2011); *Anderson* v. *Boston*, 375 F. 3d 71, 89 (CA1 2004).

TJ's model itself has been trumpeted to potential replicators as a blueprint for evading *SFFA*.[9]

* * *

The Court's willingness to swallow the aberrant decision below is hard to understand. We should wipe the decision off the books, and because the Court refuses to do so, I must respectfully dissent.

[9] Less than two weeks after *SFFA* was decided, the dean of UC Berkeley School of Law and the general counsel for the University of Michigan, to name just a couple of examples, openly advocated for schools to emulate TJ's new admissions model. See Brief for Cato Institute as *Amicus Curiae* 4–7. Just as TJ offers a roadmap for other selective schools to skirt the Equal Protection Clause, so too does the Fourth Circuit's reasoning offer a roadmap for other federal courts to provide cover.