

(ORDER LIST: 598 U.S.)

MONDAY, JANUARY 23, 2023

ORDERS IN PENDING CASES

22M63 RANKIN, WILLIAM A. V. BRIAN LAVAN AND ASSOC., ET AL.

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

22M64 WRIGHT, SEAN V. ALASKA

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

22M65 TRAPPS, ALECIA V. UNITED STATES

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

22M66 HINES, FRANCES V. BOSTON PUBLIC SCHOOLS

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

22-277) MOODY, ATT'Y GEN. OF FL, ET AL. V. NETCHOICE, LLC, ET AL.

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22-393) NETCHOICE, LLC, ET AL. V. MOODY, ATT'Y GEN. OF FL, ET AL.

22-555 NETCHOICE, LLC, ET AL. V. PAXTON, ATT'Y GEN. OF TX

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

22-6111 IN RE KATRESE NICKELSON

22-6224 SHAHROKHI, ALI V. BURROW, KIZZY J. S.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until February 13, 2023, 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

22-95 FILE, SCHUYLER V. HICKEY, MARGARET, ET AL.

22-263 WANTOU, YVES V. WAL-MART STORES TEXAS

22-336 REED, JASON V. UNITED STATES

22-375 WORD OF GOD FELLOWSHIP, INC. V. VIMEO, INC., ET AL.

22-402) VORLEY, JAMES V. UNITED STATES
)

22-419) CHANU, CEDRIC V. UNITED STATES

22-460 PLUMB, JOSHUA C. V. U.S. BANK NAT. ASSN., ET AL.

22-477 GUNN, LEZLIE J. V. WILD, HANS-PETER

22-482 KEVIN KERVENG TUNG, P.C., ET AL. V. FOU, JANET YIJUAN

22-489 BERTRAM, KEVIN C. V. U.S. BANK N.A.

22-503 STENSTROM, GREGORY, ET AL. V. DE COUNTY BOARD OF ELECTIONS

22-508 GREEN, JOHN O. V. UNITED STATES

22-521 PIDGEON, JACK, ET AL. V. TURNER, MAYOR, ET AL.

22-522 APPLIED UNDERWRITERS, ET AL. V. LARA, RICARDO, ET AL.

22-537 HAKIM, RAMY EID Z. V. UNITED STATES

22-550 JACKSON, CARLOS V. MISSISSIPPI

22-561 WINGET, LARRY J., ET AL. V. ALTER DOMUS, LLC

22-577 WRIGHT, JODEE V. SEIU LOCAL 503, ET AL.

22-5102 DANIELS, NATHANIEL L. V. UNITED STATES

22-5206 DUKA, SHAIN V. UNITED STATES

22-5752 SUGGS, RICARDO M. V. WARDEN, FCI LORETTO

22-5765 PARKER, RYANNE V. W. CARROLL SPECIAL SCHOOL DIST.

22-5793 FORREST, THOMAS A., ET UX. V. UNITED STATES

22-5857 ENYINNAYA, BANGO B. V. UNITED STATES

22-5879 THURMAN, EUGENE V. UNITED STATES

22-5926 NG, CHARLES C. V. CALIFORNIA

22-6060 OWENS, CHRISTINE V. SIMONET, MAHERSHAL

22-6088 MATAELE, TUPOUTOE V. CALIFORNIA
22-6113 GARCIA, GUILLERMO V. HILL, WARDEN
22-6118 GLOVER, WILBERT V. BOSTROM, MATT, ET AL.
22-6119 FEARENCE, JAQUES V. CASH, WARDEN
22-6122 ALCOSER, DANNY W. V. FORD, KATHRYNE, ET AL.
22-6139 THOMPSON, LAWRENCE E. V. LUMPKIN, DIR., TX DCJ
22-6145 RODRIGUEZ, DANIEL A. V. SHINN, DIR., AZ DOC, ET AL.
22-6147 PORTERFIELD, ERIC L. V. DEPT. OF JUSTICE, ET AL.
22-6148 BRADLEY, LARRY J. V. FLORIDA
22-6149 ARELLANO, EDGAR V. CALIFORNIA
22-6162 SCOTT, DONALD L. V. ARIZONA
22-6165 THOMAS, DARRON V. GARLAND, ATT'Y GEN.
22-6176 WOLF, CHERYL A., ET AL. V. FBI
22-6281 BASTIDE-HERNANDEZ, JUAN C. V. UNITED STATES
22-6286 YANG, JOHN V. UNITED STATES
22-6289 SINGLETON, KEVIN V. UNITED STATES
22-6291 DAVIS, JIMMY R. V. UNITED STATES
22-6300 CASTRO-SALAZAR, EDMAN V. UNITED STATES
22-6302 CANALES, SELVIN O. V. UNITED STATES
22-6305 BASEY, KALEB L. V. UNITED STATES
22-6349 NEPOMUCENO, DANIEL V. REYES, SUPT., SNAKE RIVER
22-6360 HART, TYRELL V. RANSOM, SUPT., DALLAS, ET AL.
22-6361 FETHEROLF, MICHAEL J. V. OHIO
22-6397 DANIEL, ALEX V. ILLINOIS
22-6402 JOHNSON, JESSE V. CALIFORNIA
22-6435 SHIPLEY, WILLIE T. V. HOLBROOK, D.

The petitions for writs of certiorari are denied.

22-6319 BOYD, FRANCIS V. SALAMON, SUPT., ROCKVIEW, ET AL.

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

MANDAMUS DENIED

22-6146 IN RE MARIA NAVARRO-MARTIN

The petition for a writ of mandamus is denied.

PROHIBITION DENIED

22-6200 IN RE TERRY LOPEZ

The petition for a writ of prohibition is denied.

REHEARINGS DENIED

22-5681 KOMATSU, TOWAKI V. NEW YORK, NY, ET AL.

22-5718 WESTMORELAND, AMOS V. SMITH, WARDEN

22-5762 MATTOX, JONATHAN V. ARIZONA

22-5804 IN RE DAVID K. LEWIS

22-5910 IN RE MARK LEWIS

The petitions for rehearing are denied.

22-306 QUARRIE, LINDSAY O. V. WELLS, STEPHEN, ET AL.

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

21-8061 LOGAN, BARBRIE V. MGM GRAND DETROIT CASINO

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

ATTORNEY DISCIPLINE

D-3067 IN THE MATTER OF DISBARMENT OF JOHN WALTER SHARBROUGH, III

John Walter Sharbrough, III, of Mobile, Alabama, having been suspended from the practice of law in this Court by order of March 29, 2021; and a rule having been issued requiring him to

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

It is ordered that John Walter Sharbrough, III is disbarred from the practice of law in this Court.

D-3069

IN THE MATTER OF DISBARMENT OF ELLIS CHARLES BAGGS

Ellis Charles Baggs, of Richmond, Virginia, having been suspended from the practice of law in this Court by order of March 29, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Ellis Charles Baggs is disbarred from the practice of law in this Court.

D-3070

IN THE MATTER OF DISBARMENT OF SCOTT BRETTSCHEIDER

Scott Brettschneider, of Mint Hill, North Carolina, having been suspended from the practice of law in this Court by order of March 29, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Scott Brettschneider is disbarred from the practice of law in this Court.

D-3072

IN THE MATTER OF DISBARMENT OF NICHOLAS G. KARAMBELAS

Nicholas G. Karambelas, of Washington, District of Columbia, having been suspended from the practice of law in this Court by order of March 29, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Nicholas G. Karambelas is disbarred from the practice of law in this Court.

D-3073

IN THE MATTER OF DISBARMENT OF JEFFREY JOSEPH KECK

Jeffrey Joseph Keck, of Woodstock, Illinois, having been suspended from the practice of law in this Court by order of March 29, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Jeffrey Joseph Keck is disbarred from the practice of law in this Court.

D-3076

IN THE MATTER OF DISBARMENT OF ALBERT MICHAEL SARDELLA

Albert Michael Sardella, of Coatesville, Pennsylvania, having been suspended from the practice of law in this Court by order of April 5, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Albert Michael Sardella is disbarred from the practice of law in this Court.

D-3080

IN THE MATTER OF DISBARMENT OF KENNETH STEVEN KAUFMAN

Kenneth Steven Kaufman, of Phippsburg, Maine, having been suspended from the practice of law in this Court by order of April 5, 2021; and a rule having been issued requiring him to show cause why he should not be disbarred; and the time to file a response having expired;

It is ordered that Kenneth Steven Kaufman is disbarred from the practice of law in this Court.

D-3081

IN THE MATTER OF DISBARMENT OF WALTER PHILIP REED

Walter Philip Reed, of New Orleans, Louisiana, having been suspended from the practice of law in this Court by order of August 22, 2022; 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 Walter Philip Reed is disbarred from the
practice of law in this Court.

D-3082

IN THE MATTER OF DISBARMENT OF KENELM L. SHIRK, III

Kenelm L. Shirk, III, of Chambersburg, Pennsylvania, having
been suspended from the practice of law in this Court by order
of August 22, 2022; 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 Kenelm L. Shirk, III is disbarred from
the practice of law in this Court.

D-3084

IN THE MATTER OF DISBARMENT OF JONATHAN LOVETT

Johnathan Lovett, of Somers, New York, having been suspended
from the practice of law in this Court by order of August 22,
2022; and a rule having been issued requiring him to show cause
why he should not be disbarred; and the time to file
a response having expired;

It is ordered that Johnathan Lovett is disbarred from the
practice of law in this Court.

D-3085

IN THE MATTER OF DISBARMENT OF THERESA MARIE BRENNAN

Theresa Marie Brennan, of Brighton, Michigan, having been
suspended from the practice of law in this Court by order of
August 22, 2022; and a rule having been issued and served upon
her requiring her to show cause why she should not be disbarred;
and the time to file a response having expired;

It is ordered that Theresa Marie Brennan is disbarred from
the practice of law in this Court.

GORSUCH, J., dissenting

SUPREME COURT OF THE UNITED STATES

MONICA TOTH *v.* UNITED STATES

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

No. 22–177. Decided January 23, 2023

The petition for a writ of certiorari is denied.

JUSTICE GORSUCH, dissenting from the denial of certiorari.

In the 1930s, Monica Toth’s father fled his home in Germany to escape the swell of violent antisemitism. Eventually, he found his way to South America, where he made a new life with his young family and went on to enjoy a successful business career in Buenos Aires. But perhaps owing to his early formative experiences, Ms. Toth’s father always kept a reserve of funds in a Swiss bank account. Shortly before his death, he gave Ms. Toth several million dollars, also in a Swiss bank account. He encouraged his daughter to keep the money there—just in case.

Ms. Toth, now in her eighties and an American citizen, followed her father’s advice. For several years, however, she failed to report her foreign bank account to the federal government as the law requires. 31 U. S. C. §5314. Ms. Toth insists this was an innocent mistake. She says she did not know of the reporting obligation. And when she learned of it, she says, she completed the necessary disclosures.

The Internal Revenue Service saw things differently. Pursuant to §5321, the agency charged Ms. Toth with willfully violating §5314’s reporting requirement and assessed a civil penalty of \$2.1 million—half of the balance of Ms. Toth’s account—plus another \$1 million in late fees and interest. Initially, Ms. Toth sought to represent herself in proceedings challenging the IRS’s assessment, but that did not go well. Later, Ms. Toth engaged counsel who argued

GORSUCH, J., dissenting

that the IRS’s assessment violated the Excessive Fines Clause of the Eighth Amendment. But the First Circuit rejected this line of defense. It held that the Constitution’s protection against excessive fines did not apply to Ms. Toth’s case because the IRS’s assessment against her was “not tied to any criminal sanction” and served a “remedial” purpose. 33 F. 4th 1, 16, 17–19 (2022).

This decision is difficult to reconcile with our precedents. We have recognized that the Excessive Fines Clause “traces its venerable lineage” to Magna Carta and the English Bill of Rights. *Timbs v. Indiana*, 586 U. S. ___, ___–___ (2019) (slip op., at 4–5). We have held that “[p]rotection against excessive punitive economic sanctions” is “fundamental” and “deeply rooted in this Nation’s history and tradition.” *Id.*, at ___ (slip op., at 7). And all that would mean little if the government could evade constitutional scrutiny under the Clause’s terms by the simple expedient of fixing a “civil” label on the fines it imposes and declining to pursue any related “criminal” case. Far from permitting that kind of maneuver, this Court has warned the Constitution guards against it. See *Austin v. United States*, 509 U. S. 602, 610 (1993) (“[T]he question is not, as the United States would have it, whether [a monetary penalty] is civil or criminal, but rather whether it is punishment.”); see also *Giaccio v. Pennsylvania*, 382 U. S. 399, 402 (1966); *Sessions v. Dimaya*, 584 U. S. ___, ___ (2018) (GORSUCH, J., concurring in part and concurring in judgment) (slip op., at 10).

Nor is a statutory penalty beneath constitutional notice because it serves a “remedial” purpose. Really, the notion of “nonpunitive penalties” is “a contradiction in terms.” *United States v. Bajakajian*, 524 U. S. 321, 346 (1998) (Kennedy, J., dissenting). Just take this case. The government did not calculate Ms. Toth’s penalty with reference to any losses or expenses it had incurred. The government imposed its penalty to punish her and, in that way, deter others. Even supposing, however, that Ms. Toth’s penalty bore

GORSUCH, J., dissenting

both punitive and compensatory purposes, it would still merit constitutional review. Under our cases a fine that serves even “*in part to punish*” is subject to analysis under the Excessive Fines Clause. *Austin*, 509 U. S., at 610 (emphasis added).

Ms. Toth and her *amici* identify still more reasons to worry about the First Circuit’s decision. They say it clashes with the approach many other courts have taken in similar cases. Pet. for Cert. 18–25 (collecting cases). They observe that it incentivizes governments to impose exorbitant civil penalties as a means of raising revenue. *Id.*, at 25–30. And they contend that it is difficult to square with the original understanding of the Eighth Amendment. Brief for Professor Beth A. Colgan as *Amicus Curiae* on Pet. for Cert. 4–13. For all these reasons, taking up this case would have been well worth our time. As things stand, one can only hope that other lower courts will not repeat its mistakes.

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