(ORDER LIST: 607 U.S.)

MONDAY, NOVEMBER 10, 2025

ORDERS IN PENDING CASES

24A1152 LABUZAN-DELANE, JENNINE V. COCHRAN AND COCHRAN INC, ET AL.

The application for stay addressed to Justice Jackson and referred to the Court is denied.

24A1165 LEPENDORF, MICHELLE V. LEPENDORF, GABRIEL

The application for stay addressed to Justice Sotomayor and referred to the Court is denied.

24A1167 RYNN, RICHARD, ET AL. V. UHS OF PHOENIX, LLC, ET AL.

The application to vacate lower court orders addressed to Justice Alito and referred to the Court is denied.

25M31 FARGAS-REYES, JONATHAN K. V. UNITED STATES

25M32 ELTGROTH, ANNA J. V. PIERSON, EDWARD A.

The motions for leave to file petitions for writs of certiorari with the supplemental appendices under seal are granted.

23-1209 M & K EMPLOYEE SOLUTIONS, ET AL. V. TRUSTEES OF THE IAM PENSION

24-171 COX COMMUNICATIONS, INC., ET AL. V. SONY MUSIC ENTERTAINMENT, ET AL.

24-345 FS CREDIT CORP., ET AL. V. SABA CAPITAL MASTER FUND, ET AL.

24-781 FIRST CHOICE WOMEN'S RESOURCE V. PLATKIN, ATT'Y GEN. OF NJ

24-993 OLIVIER, GABRIEL V. BRANDON, MS, ET AL.

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

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24-6526 RIAZ, SAMREEN F. V. SUPERIOR COURT OF CA, ET AL.

24-6624 STAMPONE, FREDERICK V. AMANN, BRITTIAN, ET AL.

25-5369 HOLMES, C. V. COLE, ADM'R, DEA

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

25-5688 TWIGG, LINDA K. V. TWIGG, ALLAN L.

25-5704 REESE, JEANIE V. SELECT PORTFOLIO, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until December 1, 2025, 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 GRANTED

24-1260 WATSON, MS SEC. OF STATE V. REPUBLICAN NAT. COMM., ET AL.

The petition for a writ of certiorari is granted.

CERTIORARI DENIED

24-1196 COLLYMORE, DWAINE V. UNITED STATES

24-1214 COSPER, JARED, ET AL. V. BACA, PERLA E.

24-1242 HOGAN, JEREMIAH, ET AL. V. LINCOLN MEDICAL PARTNERS, ET AL.

24-1267 DENSMORE, ADAM D. V. COLORADO

24-1294 GRAYSON, ALAN V. NO LABELS, INC., ET AL.

24-1296 McKENZIE CTY., ND V. UNITED STATES, ET AL.

24-1309 EAST PENN MANUFACTURING CO. V. CHAVEZ-DeREMER, SEC. OF LABOR

24-6939 DeSHAW, SCOTT L., ET AL. V. ARIZONA

24-7237 SMITH, JAMARR, ET AL. V. UNITED STATES

24-7473 CRUZ-GARCIA, OBEL V. GUERRERO, DIR., TX DCJ

25-8 CLARK, MATTHEW V. UNITED STATES

25-38 LILLY, SETH A. V. LILLY, MELISSA A.

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25-73 AL-MAQABLH, ALI V. HEINZ, CRYSTAL, ET AL.

25-91 RICHMOND ROAD PARTNERS, ET AL. V. WARRENSVILLE HEIGHTS, OH, ET AL.

25-152 MULA, PAUL V. MULA, ALAN, ET AL.

25-189 WATERMAN, RON J. V. WATERMAN, ROBYN B.

25-202 APUZZA, ADRIENNE V. NYU LANGONE LONG ISLAND

25-207 CHOLLET, EILEEN, ET AL. V. REID, MICHELLE C.

25-210 SYNNOTT, JAMES V. BURGERMEISTER, PAUL, ET AL.

25-219 ARNOLD, JAY W. V. TEXAS

25-220 GAVETTE, JOHN V. UNITED WHOLESALE MORTGAGE, LLC

25-224 GELB, BERNARD V. NIBLACK, PRESTON, ET AL.

25-226 MURRAY, EASTON V. ARIZONA, ET AL.

25-230 CONERLY, CARINA, ET AL. V. TARPIN, SHARIF R., ET AL.

25-232 VANGA, KING V. JUAREZ, PRISCILLA N., ET AL.

25-247 PAYNE, CHARLES L. V. OHIO

25-249 POON-ATKINS, CHRISTY, ET VIR V. RIVERSPRINGS HOA, INC., ET AL.

25-251 DANG, HUNG V. MOORE, KIMBERLY, ET AL.

25-252 FLUELLEN, JALINA V. KRASN, DAVID, ET AL.

25-261 ASING, CHRISTINE V. HI GOV'T EMPLOYEES ASSN.

25-276 HEALY, BRET V. SUPREME COURT OF SD, ET AL.

25-277 RUSFELDT, ADEN V. MORAR, OFFICER, ET AL.

25-278 HILL, JEFFREY L. V. SUWANNEE WATER MANAGEMENT DIS.

25-280 COX, TRACY, ET AL. V. ASSN. OF OR CORR. INC., ET AL.

25-281 BYRNE, PATRICK V. US DOMINION, INC., ET AL.

25-282 CONERLY, CARINA V. TARPIN, SHARIF

25-285 WHITE, ELIZABETH, ET VIR V. NC DEPT. OF HEALTH, ET AL.

25-286 SIX4THREE, LLC V. FACEBOOK, INC., ET AL.

25-292 ROSEMAN, JOHN L. V. DLJ MORTGAGE CAPITAL, ET AL.

25-295 WG/WELCH MECHANICAL CONTRACTORS V. INT'L ASSN. SHEET METAL, ET AL.

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25-296 DeWILDE, JAKE S. V. BONDI, ATT'Y GEN., ET AL.

25-300 GODDARD, WILLIAM A., ET AL. V. UNITED STATES

25-306 SPELLISSY, THOMAS F. V. UNITED STATES

25-323 KISSELL, MICHAEL F. V. PA OFFICE OF THE BUDGET, ET AL.

25-333 ZHAO, TANGTANG V. UNITED STATES

25-334 KORPE, SATYASHEEL S. V. UNITED STATES

25-335 TOMKO, LEE M. V. UNITED STATES

25-342 RADIO COMMUNICATIONS CORP. V. FCC, ET AL.

25-345 JOHNSON, IVY D. V. BISIGNANO, COMM'R, SOCIAL SEC.

25-351 SHANDA GAMES LTD., ET AL. V. MONK, DAVID

25-353 TARQUINIO, SALLY W. V. JOHNS HOPKINS UNIV. PHYSICS

25-358 COLLINS, CARL L. V. UNITED STATES

25-366 LATHFIELD INVESTMENTS, ET AL. V. LATHRUP VILLAGE, MI

25-375 CPC PATENT TECHNOLOGIES PTY LTD. V. APPLE INC.

25-376 DARDEN, DUSTIN T. H. V. CROWD MANAGEMENT SERV.

25-383 VAN EPERN, MARK V. UNITED STATES

25-384 ASHRAF, FAISAL V. UNITED STATES

25-388 PAJER, ADAM, ET AL. V. DISNEY PARKS, INC., ET AL.

25-392 DAUGHTRY, JAKE E., ET AL. V. SILVER FERN CHEM., INC., ET AL.

25-395 RUBINSTEIN, ERAN, ET AL. V. BANK OF AMERICA, N.A., ET AL.

25-402 DIAW, MAMADOU V. OHIO

25-409 MILLER, SHERRY L. V. CAMPBELL SOUP RETIREMENT COMM.

25-411 DOE, JOHN V. ILLINOIS

25-433 AST & SCIENCE LLC V. DELCLAUX PARTNERS SA

25-440 ANDERSON, THOMAS, ET AL. V. UNITED AIRLINES, INC., ET AL.

25-444 HALICKI, DENICE S., ET AL. V. CARROLL SHELBY LICENSING, ET AL.

25-445 E&I GLOBAL ENERGY SERV., ET AL. V. LIBERTY MUT. INS. CO.

25-5053 RUFFIN, DAMAR D. V. UNITED STATES

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25-5056 BUSBY, EDWARD L. V. TEXAS

25-5191 STEIN, STEVEN E. V. FLORIDA

25-5286 FIELDS, SAMUEL V. PLAPPERT, WARDEN

25-5456 GAYNOR, ELBERT V. EXTENDED STAY AMERICA

25-5458 McCAULEY, ANDREW J. V. WEST VIRGINIA

25-5463 NELSON, TRENT V. URSA MAJOR CORP.

25-5464 DIAZ ONEILL, JAIME A. V. BALDOR SPECIALTY FOODS, INC.

25-5474 SEVERSON, JACOB I. V. GUPTA, SHABNUM, ET AL.

25-5476 FORD, LEIGH V. V. FLORIDA

25-5479 MATA, SALVADOR B. V. TEXAS

25-5484 COGGINS, COREY B. V. COX, WARDEN

25-5487 WADE, JOSEPH W. V. MOSLEY, NY SEC. OF STATE, ET AL.

25-5488 MO, EX REL. WILLIAMS V. ALBUS, THOMAS

25-5489 FOWLER, PETER V. BOHNERT, LUCAS, ET AL.

25-5491 CALDWELL, DANIEL J. V. FX FOR PROTECTION OF ZIMMERMAN

25-5492 GIVENS, SHEDRICK V. VANNOY, WARDEN

25-5494 ALLEN, DONALD A. V. NEW JERSEY

25-5496 DAVISON, ALONZO G. V. HARPE, DIR., OK DOC

25-5498 STRAUCH, JASON V. NEW MEXICO

25-5501 WOLTZ, BRIAN T. V. GOOD, SUSAN, ET AL.

25-5502 BRADLEY, AISHA A. V. PHILADELPHIA, PA

25-5505 TAVERAS, VALERIA, ET VIR V. U.S. BANK, NAT. ASSN.

25-5507 CHERRY-WIGGINS, JAMILLAH V. THE METHODIST HOSP., INC.

25-5508 ADAMS, LEIVANTE V. ILLINOIS

25-5509 MAY, PARNELL R. V. PAYNE, DIR., AR DOC

25-5512 BARTLETT, ROBERT A. V. NORTH CAROLINA

25-5523 IBRAHIM, MOHAMED A. V. LYNN, ALLISON L.

25-5525 BLOODMAN, TERESA L. V. BRECH, ROBERT

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25-5526 LAKHLOUFI, FOUZIA V. ABUZANET, MOHAMMAD A. N.

25-5529 TORAIN, BILLY V. IL HUMAN RIGHTS COMM'N, ET AL.

25-5530 PARENTEAU, EDMOND G. V. UNITED STATES

25-5544 PETTUS, JAMES V. BREIER, JUDGE, ET AL.

25-5546 NEAL EL, MOURICE V. SHOWMAN, MICHAEL

25-5551 BUZZARD, RONALD V. WARNER, SUPT., MONROE

25-5555 LE, KY T. V. SSA

25-5558 GARCES, MATTHEW A. V. HERNANDEZ, CINDY, ET AL.

25-5561 QUINN, CECIL J. V. HAYES, JUDGE, ET AL.

25-5562 DUBUC, BRIAN D. V. BANK OF OKMULGEE, ET AL.

25-5563 SMITH, JOSEPH L. V. LOUISIANA

25-5564 GARCIA, AGUSTIN V. NEW JERSEY

25-5568 CONNER, DONNA M. V. XFINITY, ET AL.

25-5569 REED, TERRANCE L. V. UNKNOWN

25-5571 GUESS, THURMOND R. V. COBLE, JUDGE, ET AL.

25-5572 REGA, ROBERT G. V. SCOTTIE, LORRAINE R.

25-5573 SCOTT, TIANTE D. V. PFEIFFER, WARDEN

25-5581 MICKENS, BRIAN V. UNEMPLOYMENT REVIEW COMM'N

25-5583 NTAMERE, ANTHONY E. V. AMERIHEALTH ADM'RS, INC., ET AL.

25-5586 PRIEST, DAVID V. BENTLEY, ET AL.

25-5595 SARKISOVA, DINA V. CALIFORNIA

25-5596 MERRITT, ARDY V. HUD, ET AL.

25-5598 McCOMAS, MARY M. V. USDC OR

25-5610 GOGIN, GREG V. MEISNER, WARDEN

25-5612 BELL, ANDREW W. V. RAFFENSPERGER, GA SEC. OF STATE

25-5616 CABALLERO, ANDREW V. KOPP, SUPT., SING SING

25-5617 SAWIRES, MAGDOULEN A. V. ELIZABETH BD. OF ED., ET AL.

25-5622 McMANUS, TARA J. V. BISIGNANO, COMM'R, SOCIAL SEC.

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25-5625 KRUG, FRED V. NJ PAROLE BD.

25-5633 MARTINEZ, MICA A. V. QUICK, WARDEN

25-5637 MICHEL, JEFFREY V. UNITED STATES

25-5649 RUNYON, DAVID A. V. UNITED STATES

25-5653 LEWIS, OREN V. HUFFMAN, SUPT., SOUTH MS

25-5657 REDD, PIERRE D. V. UNITED STATES

25-5662 FORD, MARTHA J. V. BANK OF NEW YORK MELLON

25-5666 DeBOSKEY, WILLIAM P. V. GOSHEN MORTGAGE, ET AL.

25-5671) MOHAMUD, MOHAMED M., ET AL. V. UNITED STATES
)
25-5672) MOALIN, BASAALY S. V. UNITED STATES

25-5673 CORROTHERS, DAQUON R. V. NORTH CAROLINA

25-5676 PLUMMER, NICOLYN V. NY PROPERTY INS. UNDERWRITING

25-5680 PETERSEN, DAVID V. UNITED STATES

25-5681 OTIS, KERRON L. V. GUERRERO, DIR., TX DCJ

25-5683 FARMER, JEREMIAH S. V. UNITED STATES

25-5684 FARMER, JEREMIAH S. V. UNITED STATES

25-5691 THOMPSON, BRADFORD A. V. TEXAS

25-5698 KNIGHT, DENNIS B. V. LeGORE, SUPT., TWO RIVERS

25-5716 MERAZ-RAMIREZ, JESUS V. UNITED STATES

25-5717 ACOSTA, RAUL V. UNITED STATES

25-5721 ROBINSON, JACOB J. V. UNITED STATES

25-5722 WISE, ISAIAH K. V. UNITED STATES

25-5724 MARTINEZ-FAJARDO, ARNULFO V. UNITED STATES

25-5730 ROSS, MICHAEL D. V. ARIZONA

25-5734 ROBOL, CHARLES V. COLUMBUS, OH, ET AL.

25-5743 BROWN, RICO L. V. UNITED STATES

25-5744 BALDUCCI, ANTHONY V. SPATNY, WARDEN

25-5751 JOHNSON, JAMIEL V. PENNSYLVANIA

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25-5757 FREDA, KRISTOPHER J. V. OREGON

25-5758 MOORE, JERRY O. V. UNITED STATES

25-5760 LEDET, DARVAL V. COOLEY, WARDEN

25-5763 WINN, JAMES L. V. UNITED STATES

25-5764 KING, JAMES E. V. UNITED STATES

25-5767 DRAFT, ROBERT V. PAYNE, DIR., AR DOC

25-5768 CHITTENDEN, LORENE V. UNITED STATES

25-5769 KENNEDY, ROBERT S. V. UNITED STATES

25-5771 HINMAN, JARED W. V. ILLINOIS

25-5772 FLORES, RUDY M. V. UNITED STATES

25-5781 COBBS, MICHAEL V. UNITED STATES

25-5783 SPURBECK, TANYA V. MIDLAND CREDIT MANAGEMENT, INC.

25-5788 BORN, KALUP A. V. UNITED STATES

25-5790 DAVEY, KYLE V. UNITED STATES

25-5791 WHITE, RAYMOND V. UNITED STATES

25-5793 DANIEL, OTIS A. V. T&M PROTECTION RESOURCES LLC

25-5795 PULIDO, JORDAN J. V. UNITED STATES

25-5796 MATLOCK, DANIEL M. V. UNITED STATES

25-5797 ACKERSON, LEIGHA P. V. COLORADO

25-5799 BURGIE, ERIC V. ARKANSAS

25-5802 PHONTHALANGSY, TOMMY V. UNITED STATES

25-5805 YOUNG, WILL E. V. IOWA

25-5901 ROUNTREE, DOMINIC A. V. McGINLEY, SUPT., ET AL.

The petitions for writs of certiorari are denied.

24-759 WYE OAK TECHNOLOGY, INC. V. REPUBLIC OF IRAQ, ET AL.

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

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of the Supreme Court of the United States, Canon 3B(2)(e) (prior judicial service).

24-1304) FIRSTENERGY SERVICE CO. V. FERC, ET AL.
)
24-1318) AM. ELEC. POWER SERV. CORP. V. FERC, ET AL.

24-1322 BARINGS L.L.C., ET AL. V. AG CENTRE PARTNERSHIP, ET AL.

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

24-7481 M. L. K. V. FLORIDA DEPT. OF CHILDREN

The motion of respondent Statewide Guardian ad Litem Office for leave to file a brief in opposition under seal is granted. The petition for a writ of certiorari is denied.

25-125 DAVIS, KIM V. ERMOLD, DAVID, ET AL.

The motion of Foundation for Moral Law for leave to file a brief as *amicus curiae* out of time is denied. The petition for a writ of certiorari is denied.

25-5457 O'KEEFE, BRIAN K. V. DISTRICT COURT OF NV, 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.

25-5473 RIAZ, SAMREEN V. COURT OF APPEAL OF CA, ET AL.

25-5547 RIAZ, SAMREEN V. RIAZ, SHAZIB

25-5559 SEPEHRY-FARD, FAREED V. SUPERIOR COURT OF CA, 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

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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*).

25-5582 PEMBERTON, PAUL C. V. MILLER, WARDEN

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

25-5786 VURIMINDI, VAMSIDHAR V. PENNSYLVANIA

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 fees 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*).

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HABEAS CORPUS DENIED

25-5782 IN RE RAMSEY E. CLAYTER

25-5831 IN RE RAY M. THOMAS

25-5870 IN RE JOSHUA MEADORS

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

25-5521 IN RE DWIGHT CAMPBELL

25-5531 IN RE OMAR R. POUNCY

25-5552 IN RE LINDA A. NASH

25-5594 IN RE BRIAN D. DUBUC

The petitions for writs of mandamus are denied.

25-236 IN RE JUSTIN J. SAADEIN-MORALES

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

25-5513 IN RE OLAMIDE O. BELLO

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.

25-5574 IN RE PAUL P. JOLIVETTE

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

REHEARINGS DENIED

24-7514 ZENG, HOU H. V. ALLIED TRUST INS. CO., ET AL.

25-5313 CASSADAY, KEVIN W. V. UNITED STATES

The petitions for rehearing are denied.

ATTORNEY DISCIPLINE

D-3156 IN THE MATTER OF DISCIPLINE OF GEORGE P. GUERTIN

George P. Guertin, of North Haven, Connecticut, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

D-3157 IN THE MATTER OF DISCIPLINE OF SCOTT ERIC DIAMOND

Scott Eric Diamond, of Philadelphia, Pennsylvania, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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D-3158 IN THE MATTER OF DISCIPLINE OF JOSEPH MICHAEL OWENS

Joseph Michael Owens, of Baltimore, Maryland, is suspended from the practice of law in this Court, and a rule will issue, returnable within 40 days, requiring him to show cause why he should not be disbarred from the practice of law in this Court.

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SUPREME COURT OF THE UNITED STATES

QUENTIN VENENO, JR. *v.* UNITED STATES

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

No. 24–5191. Decided November 10, 2025

The petition for a writ of certiorari is denied.

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

Petitioner asks us to grant review in this case to reconsider *United States* v. *Kagama*, 118 U. S. 375 (1886). *Kagama* helped usher into our case law the theory that the federal government enjoys "plenary power" over the internal affairs of Native American Tribes. It is a theory that should make this Court blush. Not only does that notion lack any foundation in the Constitution; its roots lie instead only in archaic prejudices. This Court is responsible for *Kagama*, and this Court holds the power to correct it. We should not shirk from the task.

As "sovereign and independent states," Native American Tribes have governed their internal affairs "from time immemorial." *Worcester* v. *Georgia*, 6 Pet. 515, 559–561 (1832) (internal quotation marks omitted). Among the sovereign powers Tribes have always enjoyed is the power to redress crimes involving their own peoples. Reflecting as much, a great many Tribes today have courts, not wholly unlike those found in States and counties across the country, open to render justice when one tribal member commits an offense against another on tribal land.

In the Major Crimes Act of 1885, the federal government sought to curtail these traditional sovereign tribal powers. There, Congress effectively wrote its own Indian criminal code, directing that tribal members who commit certain major crimes against other tribal members within "Indian

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country" may be tried and punished in federal court. *Kagama*, 118 U. S., at 377; see 23 Stat. 385. The Act may not have completely displaced tribal criminal-justice authorities. See *United States* v. *Wheeler*, 435 U. S. 313, 330–331 (1978). Even so, the law surely represented a sweeping assertion of federal power, one that would be unthinkable elsewhere in the United States. Yes, of course, Congress may adopt a variety of criminal laws consistent with its "limited" and "enumerated" powers under the Constitution. *McCulloch* v. *Maryland*, 4 Wheat. 316, 406 (1819). But, no, Congress does not enjoy some "general right to punish" crimes of its choosing "within . . . the States" however and whenever it pleases. *Cohens* v. *Virginia*, 6 Wheat. 264, 426 (1821). Our Constitution "withhold[s] from Congress" that kind of "plenary police power." *United States* v. *Lopez*, 514 U. S. 549, 566 (1995).

Despite these foundational principles, this Court in *Kagama* upheld the Major Crimes Act. To arrive at that result, the Court relied on "little more than *ipse dixit*." *Haaland* v. *Brackeen*, 599 U. S. 255, 357 (2023) (THOMAS, J., dissenting). It had to. Congress's limited and enumerated powers no more include some plenary power over the internal affairs of Tribes than they do over the internal affairs of States. *Id.*, at 318–319 (GORSUCH, J., concurring).

Kagama itself all but admitted as much. Before the Court, the federal government argued that the Act represented a permissible exercise of Congress's power under the Constitution's Indian Commerce Clause. See Art. I, §8, cl. 3; Brief for United States in *United States* v. *Kagama,* O. T. 1885, No. 1246, p. 23. But the Court rejected that argument, and rightly so, calling it "a very strained construction of th[e] clause." *Kagama*, 118 U. S., at 378. In the Major Crimes Act, after all, the federal government asserted the power to regulate crimes between tribal members on tribal land "*without any reference to their relation to any kind of commerce*." *Id.*, at 378–379 (emphasis added). And

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while the Indian Commerce Clause may afford Congress considerable authority over "bilateral relations with the Tribes," nothing in it authorizes Congress to "reassign to the federal government inherent sovereign authorities that belong to the Tribes." *Brackeen*, 599 U. S., at 320, 325 (GORSUCH, J., concurring) (internal quotation marks and alterations omitted).

Having dismissed the government's central defense of the Act, the Court was left to advance a hodgepodge of others with no more secure a constitutional footing. First, the Court invoked the Territories Clause. *Kagama*, 118 U. S., at 379–381. But that provision affords Congress only the power to make "needful Rules and Regulations" for "Territor[ies] . . . belonging to the United States." Art. IV, §3, cl. 2. And while the Clause may allow Congress to establish local governments in Territories belonging to the Nation before they enter the Union as States, it does not authorize Congress "to exercise municipal jurisdiction" over non-federal lands within a State and over which another sovereign exercises authority. See *Lessee of Pollard* v. *Hagan*, 3 How. 212, 223–224 (1845). Accordingly, that Clause can hardly supply authority for Congress to regulate conduct on tribal lands within States. Nor, for that matter, does the Clause, rightly understood, endow the federal government with plenary power even within the Territories themselves. *United States* v. *Vaello Madero*, 596 U. S. 159, 184–185 (2022) (GORSUCH, J., concurring).

Next, and leaving the Constitution behind, the *Kagama* Court gestured to the European doctrine of discovery. 118 U. S., at 381–382. But our Constitution makes no mention of that doctrine. Nor, at least as conceived by the Marshall Court shortly after the Nation's founding, does the doctrine imply plenary federal power over internal tribal affairs. As that Court put it, even after the European "discovery" of North America, Tribes remained "distinct, independent political communities retaining their original natural rights,"

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with only "the *single exception*" that they could have no "intercourse with any other European potentate than the first discoverer." *Worcester*, 6 Pet., at 546, 559 (emphasis added).

From this, one might glean that the discovery doctrine meant one European nation could assert certain exclusive "rights" of intercourse with Tribes as "against all other European" claimants. R. Clinton, The Proclamation of 1763: Colonial Prelude to Two Centuries of Federal-State Conflict Over the Management of Indian Affairs, 69 B. U. L. Rev. 329, 332, n. 6 (1989). Perhaps, too, the doctrine meant that a private party could not buy tribal land without approval from the relevant European national authority. *Johnson's Lessee* v. *McIntosh*, 8 Wheat. 543, 604–605 (1823). But even on its own terms, the Marshall Court appreciated, the discovery doctrine did nothing to strip Native American Tribes of "the rights which belong to self-government." *Worcester*, 6 Pet., at 580; see also K. Richotte, The Worst Trickster Story Ever Told: Native America, the Supreme Court, and the U. S. Constitution 26–27 (2025); N. Newton, Federal Power Over Indians: Its Sources, Scope, and Limitations, 132 U. Pa. L. Rev. 195, 208–210 (1984).*

Lacking any other way to uphold the Act, the *Kagama* Court ultimately resorted to archaic colonial prejudices nowhere found in our republican Constitution and wholly antithetical to it. The Major Crimes Act, the Court insisted, should be left to stand because "Indian tribes *are* the wards

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*Even as articulated by the Marshall Court, the discovery doctrine leaves much to be desired. If "discovering" a land is enough to secure certain rights over it, one might wonder why Native Americans hadn't obtained those rights over their lands long before Europeans arrived. As one commentator had already asked by the time of the Nation's founding: "If sailing along a coast can give a right to a country, then might the people of Japan become, as soon as they please, the proprietors of Britain"? R. Price, Observations on the Nature of Civil Liberty, the Principles of Government, and the Justice and Policy of the War with America 23 (1776) (emphasis deleted).

of the nation" and "communities *dependent* on the United States . . . for their daily food." 118 U. S., at 383–384 (emphasis in original). Their "very weakness and helplessness," the Court continued, imposed a "duty of protection" upon Congress that came with a corresponding "power." *Id.*, at 384. As the Court saw it, "[t]he power of the General Government over these remnants of a race once powerful, now weak and diminished in numbers, [was] necessary to their protection." *Ibid.*

For decades, what followed in *Kagama*'s wake was more of the same. In one decision after another, this Court did not look to the Constitution for guidance on the scope of the federal government's powers over tribal affairs. Instead, and often citing *Kagama* as authority, the Court suggested that the government could exercise a free-floating "[p]lenary authority" over Tribes because they are "wea[k] and helples[s]," *Lone Wolf* v. *Hitchcock*, 187 U. S. 553, 565, 567 (1903), and composed of "simple, uninformed and inferior people" who find themselves in the care of "a superior and civilized nation," *United States* v. *Sandoval*, 231 U. S. 28, 39, 46 (1913).

The plenary power theory *Kagama* helped spawn not only lacked any basis in the Constitution. It also injected a new "incoherence into our Indian-law jurisprudence." *Brackeen*, 599 U. S., at 329 (GORSUCH, J., concurring). Since the founding and to this day, this Court has acknowledged that Congress enjoys only limited and enumerated powers and that Tribes are "sovereign and independent states." *Worcester*, 6 Pet., at 561 (internal quotation marks omitted); see also *Wheeler*, 435 U. S., at 331. Yet, thanks to decisions like *Kagama*, this Court has also sometimes suggested that Congress enjoys plenary power to "regulate virtually every aspect of the tribes." *United States* v. *Lara*, 541 U. S. 193, 214–215 (2004) (THOMAS, J., concurring in judgment). "Those two propositions of course clash"

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because "only one is true." *Brackeen*, 599 U. S., at 330 (GORSUCH, J., concurring).

Embarrassed equally by the lawlessness of decisions from the "high plenary power era" and the incoherence they introduced into our case law, this Court has, with time, beaten a slow retreat from them. See S. Cleveland, Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs, 81 Texas L. Rev. 1, 62 (2002); see also *Brackeen*, 599 U. S., at 326–330 (GORSUCH, J., concurring) (tracing these developments). Just two years ago, that retreat found notable expression in *Brackeen* where this Court once again recognized that the Constitution affords Congress only "a series of enumerated powers, not a series of blank checks," and that, "like the rest of its legislative powers, Congress's authority to regulate Indians must derive from the Constitution, not the atmosphere." *Id.*, at 273, 276 (majority opinion); see also *id.*, at 330 (GORSUCH, J., concurring).

That is exactly right. And it is exactly why this Court must confront decisions, like *Kagama*, that cannot be explained by the Constitution, but only by the atmosphere of their times. I regret that the Court declines to take up that challenge today. But whether the day of reckoning for the plenary power theory comes sooner or later, it must come.

Nor is that day to be feared. If this Court were to overturn *Kagama*, Tribes could exercise their sovereign powers to address "major" crimes among Indians, something this Court has no business assuming they are too "inferior" or "weak" to do without supervision from a "superior" people. Equally, if Tribes and the government decide that a degree of federal involvement in tribal justice is mutually beneficial, the Constitution affords a lawful way to achieve that end: by treaty. Art. II, §2, cl. 2; see *Worcester*, 6 Pet., at 550–551. The government may be out of practice using that tool. See Act of Mar. 3, 1871, 16 Stat. 566. But Congress

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often addressed criminal justice matters in treaties with Tribes before the Major Crimes Act, and it could do so again. See, *e.g.*, 7 Stat. 40–41; 15 Stat. 635–636.

Doubtless, as the government stresses in its opposition to this petition, many of this Court's plenary power decisions have stood for years. Brief in Opposition 22–24. But the same was once said in defense of *Plessy* v. *Ferguson*, 163 U. S. 537 (1896), and *Korematsu* v. *United States*, 323 U. S. 214 (1944). And, as with those cases, our plenary power decisions demand reconsideration if this Court is ever to bring coherence to the law and make good on its promise of fidelity to the Constitution. A matter so grave "'can[not] be settled until settled right.'" F. Coudert, The Evolution of the Doctrine of Territorial Incorporation, 26 Colum. L. Rev. 823, 842 (1926) (quoting Justice John Marshall Harlan).

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