

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

DRAKES BAY OYSTER COMPANY, ET AL.,)
Plaintiffs-Appellants,)
)
v.)
)
SALLY JEWELL, ET AL.,)
Defendants-Appellees.)

No. 13-15227

NOTICE OF DENIAL OF CERTIORARI

The Secretary of the Interior hereby provides this Court notice that the Supreme Court has denied Plaintiffs’ petition for certiorari in this case.

On January 14, 2014, this Court issued its amended opinion upholding the district court’s denial of a preliminary injunction, and denied rehearing en banc. Plaintiffs sought a stay of the mandate pending the disposition of their petition for certiorari. This Court granted a stay of the mandate on January 27, 2014. Federal Rule of Appellate Procedure 41(d)(2)(D) provides that when this Court stays its mandate pending a petition for certiorari, it “must issue the mandate immediately when a copy of the Supreme Court order denying the petition for writ of certiorari is filed.” The Supreme Court denied Plaintiffs’ petition on June 30, 2014. A copy of the order is attached to this Notice, and this Court’s mandate may now issue.

Respectfully submitted,

STEPHEN M. MACFARLANE
JOSEPH T. MATHEWS
E. BARRETT ATWOOD
U.S. Department of Justice
Environment & Natural Res. Dev.
501 "I" Street, Suite 9-700
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/s/J. David Gunter II
J. DAVID GUNTER II
U.S. Department of Justice
Environment & Natural Res. Div.
Washington, DC 20044
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June 30, 2014
90-1-1-13861

CERTIFICATE OF SERVICE

I certify that, on June 30, 2014, I caused the foregoing Notice to be filed with the Court using is CM/ECF system. To my knowledge, all counsel that have appeared in this case are registered for that system and will receive service of the foregoing Notice when it is filed.

/s / J. David Gunter II _____

(ORDER LIST: 573 U. S.)

MONDAY, JUNE 30, 2014

CERTIORARI -- SUMMARY DISPOSITIONS

13-255 WILDTANGENT, INC. V. ULTRAMERCIAL, LLC, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Federal Circuit for further consideration in light of *Alice Corp. v. CLS Bank Int'l*, 573 U. S. ____ (2014).

13-888 AMGEN INC., ET AL. V. HARRIS, STEVE, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Ninth Circuit for further consideration in light of *Fifth Third Bancorp v. Dudenhoeffer*, 573 U. S. ____ (2014).

13-1093 GIBSON, ANTHONY V. KILPATRICK, JEFFREY

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Lane v. Franks*, 573 U. S. ____ (2014).

ORDERS IN PENDING CASES

13A1112 HAWKINS, ISREAL O. V. UNITED STATES

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

13M133 ALI, KASIM E. V. FLORIDA

The motion to direct the Clerk to file a petition for a writ

of certiorari out of time is denied.

13M134 DEDMON, MARQUISE T. V. UNITED STATES

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

13M135 PEREIRA, MARIA P. V. UNITED STATES

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

13M136 HEIM, ARTHUR V. HOLDER, ATT'Y GEN., ET AL.

The motion to direct the Clerk to file a petition for a writ of certiorari out of time under Rule 14.5 is denied.

13M137 DENZER, LOREN A. V. OUBRE, WARDEN

13M138 WOOD, VERNON D. V. UNITED STATES

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

13-956 TEVA PHARMACEUTICALS USA, ET AL. V. SUPERIOR COURT OF CA, ET AL.

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

13-7120 JOHNSON, SAMUEL V. UNITED STATES

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

13-9880 AMEZCUA, SERGIO V. DISTRICT COURT OF NV, ET AL.

13-9885 MOBLEY, MARVIN D. V. FLORIDA, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until July 21, 2014, 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

13-1019 MACH MINING, LLC V. EEOC
13-1034 MELLOULI, MOONES V. HOLDER, ATT'Y GEN.
13-1074 UNITED STATES V. WONG, KWAI FUN
13-1075 UNITED STATES V. JUNE, MARLENE
13-1174 GELBOIM, ELLEN, ET AL. V. BANK OF AMERICA CORP., ET AL.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

13-448 PICARD, IRVING H. V. HSBC BANK PLC, ET AL.
13-498 BIANCHI, LOUIS A., ET AL. V. CHRZANOWSKI, KIRK
13-584 BANCORP SERVICES, LLC V. SUN LIFE ASSURANCE CO., ET AL.
13-662 BANK OF AMERICA, N.A. V. ROSE, HAROLD, ET AL.
13-902 TEMBENIS, HARRY, ET AL. V. BURWELL, SEC. OF H&HS
13-913 JANVEY, RALPH V. ALGUIRE, JAMES, ET AL.
13-918 ACCENTURE GLOBAL SERVICES, ET AL V. GUIDEWIRE SOFTWARE, INC.
13-949) PICKUP, DAVID H., ET AL. V. BROWN, GOV. OF CA, ET AL.
)
13-1281) WELCH, DONALD, ET AL. V. BROWN, GOV. OF CA, ET AL.
13-994 LUNA, FELIPE N. V. TEXAS
13-999 IBARRA, JOSUE V. TEXAS
13-1006 EQUIFAX, INC., ET AL. V. MS DEPT. OF REVENUE
13-1015 TEVA PHARMACEUTICALS USA, INC. V. ROMO, JUDITH, ET AL.
13-1016 XANODYNE PHARMACEUTICALS, INC. V. CORBER, MARGALIT, ET AL.
13-1036 GOMEZ, ENRIQUE P. V. TEXAS
13-1062 RUDOLPH TECHNOLOGIES, ET AL. V. INTEGRATED TECHNOLOGY, ET AL.
13-1077 KING, IRVINE, ET AL. V. UNITED STATES
13-1111 GEORGIA V. ROESSER, CHRISTOPHER B.
13-1124 MINORITY TELEVISION PROJECT V. FCC, ET AL.
13-1137 JILL STUART LLC V. SANEI INTERNATIONAL CO., ET AL.

13-1142 PENTAGON CAPITAL MGMT., ET AL. V. SEC

13-1148) ROCKY MOUNTAIN FARMERS, ET AL. V. COREY, RICHARD W., ET AL.
)

13-1149) AM. FUEL & PETROCHEMICAL, ET AL. V. COREY, RICHARD W., ET AL.
)

13-1308) COREY, RICHARD W., ET AL. V. ROCKY MOUNTAIN FARMERS, ET AL.

13-1152 TUMA, JOHN E. V. UNITED STATES

13-1166 SALAZAR, EDDIE A. V. MISSOURI

13-1181 GOOGLE, INC. V. JOFFE, BENJAMIN, ET AL.

13-1194 OMETTO, ADRIANO G., ET AL. V. ASA BIOENERGY HOLDING A.G.

13-1201 KALITTA AIR V. CENTRAL TEXAS AIRBORNE SYSTEMS

13-1212 LAFARGE NORTH AMERICA, ET AL. V. ST. BERNARD PARISH, LA

13-1244 DRAKES BAY OYSTER CO., ET AL. V. JEWELL, SEC. OF INT., ET AL.

13-1279 PINON, ANDREW T., ET AL. V. BANK OF AMERICA, ET AL.

13-1288 ERLICHMAN, DARRIN V. STATER BROS. MARKETS, ET AL.

13-1291 BOOK, ETHAN V. MENDOZA, ROBERT, ET AL.

13-1316 STARR INTERNATIONAL CO., ET AL. V. FED. RESERVE BANK OF NY

13-1317 KRISLOV, CLINTON A., ET AL. V. STEIN, ROBERT J.

13-1351 McCOLLUM, SAMUEL J., ET UX. V. ASPEN PROPERTY, ET AL.

13-1354 WALTHOUR, ASHLEY, ET AL. V. CHIPIO WINDSHIELD REPAIR, ET AL.

13-1358 FACEY, PAULET V. NY CITY DEPT. OF EDUCATION

13-1382 AGNEW, WILLIAM H., ET UX. V. E*TRADE SECURITIES

13-1386 SONERA HOLDING B.V. V. CUKUROVA HOLDING A.S.

13-1388 SHEPPARD, LAKEIA S. V. VIRGINIA

13-1391 TORIBIO, RADDY N. V. SPECE, BERNARD, ET AL.

13-1392 WOZNY, PAUL C. V. WISCONSIN

13-1394 EDWARDS, ENID V. UNITED STATES

13-1397 HOTI ENTERPRISES, ET AL. V. GECMC 2007

13-1400 KENDALL, BETH V. DONAHOE, POSTMASTER GEN.

13-1404 WALL, GEORGE M. V. ALCON LABORATORIES, INC., ET AL.

13-1415 COHEN, RAYMOND V. CIR
13-1423 EXTENDICARE HOMES, INC. V. PISANO, MICHAEL
13-1439 MONTES, ELISEO V. UNITED STATES
13-8405 ANDERSON, PATRICIA D. V. UNITED STATES
13-8809 ST. PREUX, CARL V. UNITED STATES
13-9205 PRUITT, CORINIO V. TENNESSEE
13-9333 TERCERO, BERNARDO A. V. STEPHENS, DIR., TX DCJ
13-9338 GIBBS, MARCUS V. UNITED STATES
13-9365 MUNOZ, LUIS A. V. UNITED STATES
13-9380 GARZA, MANUEL V. STEPHENS, DIR., TX DCJ
13-9382 FORDE, SHAWNA V. ARIZONA
13-9385 IBARRA CARRANZA, JAVIER V. UNITED STATES
13-9788 COLEMAN, WILLIAM T. V. ROCK HILL MUNICIPAL CT., ET AL.
13-9790 GILMORE, ALLAN T. V. GONZALEZ, WARDEN
13-9791 HENDERSON, WILLIAM T. V. PERRY, SEC., NC DPS
13-9795 FREEMAN, RICKY, ET AL. V. SULLIVAN, LAQUITA, ET AL.
13-9796 GRADY, BOBBY R. V. VICKORY, BRANSON, ET AL.
13-9802 HOLTZ, ALEC J. V. ARIZONA
13-9805 M. N. V. FL DEPT. OF CHILDREN, ET AL.
13-9808 FRATER, ANTHONY J. V. CREWS, SEC., FL DOC
13-9811 HILL, DAVID R. V. MANIS, WARDEN
13-9812 HOLMES, ROBERT V. WILLIAMS, WARDEN, ET AL.
13-9822 PRE, REYNANTE V. GONZALEZ, WARDEN, ET AL.
13-9825 KEETON, J. C. V. STEPHENS, DIR., TX DCJ
13-9828 BURNEY, ELIOT V. PENNSYLVANIA
13-9829 ARNETT, JESUS L. V. CALIFORNIA
13-9833 ALLEN, AMIR R. V. PENNSYLVANIA
13-9834 SIKES, JONATHAN P. V. TEXAS

13-9843 WILLIAMS, JESSICA M. V. CALIFORNIA
13-9844 RODRIGUEZ, FERNANDO V. HOBBS, DIR., AR DOC
13-9845 WRIGHT, KEVIN R. V. STEPHENS, DIR., TX DCJ
13-9849 STEWART, JAMES E. V. CALIFORNIA
13-9851 VEGA, FRANCISCO V. DAVEY, WARDEN
13-9856 BARTON, BRADLEY J. V. DISTRICT COURT OF TX
13-9857 MACKEY, MICHAEL E. V. BITER, WARDEN
13-9863 MURILLO, JOSE L. V. HARRINGTON, WARDEN
13-9867 WASHINGTON, GEORGE C. V. SYKES, ET AL.
13-9874 BLEDSOE, ANTHUS V. TERRELL, WARDEN
13-9876 JACKSON, TYRONE A. V. CAIN, WARDEN
13-9887 GREISER, FRANCIS T. V. WHITTIER TOWERS, ET AL.
13-9890 FONTAINE, OBADIAH L. V. SPORT CITY TOYOTA
13-9891 FRANKLIN, NUE C. V. ARBOR STATION, ET AL.
13-9893 MORETTO, STEPHEN A. V. FLORIDA
13-9895 ZAVALA, EDGAR V. PEREZ, ACTING WARDEN
13-9901 OBADO, DENNIS V. MANCHANDA LAW FIRM PLLC, ET AL.
13-9980 BAKER, MICHAEL V. ILLINOIS
13-9988 IRACHETA, SIGIFREDO S. V. HOLDER, ATT'Y GEN.
13-9990 PHILLIPS, DELORIS V. FBI
13-9997 HERNANDEZ, JOSE V. GIBSON, WARDEN
13-10048 LAKE, JESSE V. WASHINGTON
13-10049 DAVIS, MAURICE T. V. NORMAN, WARDEN
13-10050 COBAS, NELSON V. HAAS, WARDEN
13-10067 VANG, DA V. RICHARDSON, WARDEN
13-10084 JOHNSON, TOMIEKIA V. CALIFORNIA
13-10151 NELSON, JOSHUA D. V. ARIZONA
13-10158 McNEAL, RICHARD C. V. CREWS, SEC., FL DOC, ET AL.

13-10162 RATLIFF, SCOTT M. V. WEST WENDOVER, NV
13-10163 ROBINSON, CLARENCE V. SOUTH CAROLINA
13-10168 GILES, JAMES A. V. SOUTH CAROLINA
13-10169 HARRIS, DAVID C. V. KANSAS
13-10233 BERAS, ROBERTO V. COAKLEY, WARDEN
13-10238 WESTON, TRAVIS D. V. HARRINGTON, WARDEN
13-10287 HOLLEMAN, DAVID W. V. UNITED STATES
13-10297 LOPEZ-ROSAS, ULISES V. UNITED STATES
13-10299 KEENAN, ROBERT M. V. UNITED STATES
13-10306 CORTES, MARK M. V. UNITED STATES
13-10309 RIVERA-GOMEZ, LUIS R. V. UNITED STATES
13-10310 JEANTY, NICOLAS F. V. UNITED STATES
13-10314 CUEVAS-VILLALOBOS, JOSE V. UNITED STATES
13-10318 DEMMONS, JAMES V. UNITED STATES
13-10323 WRIGHT, CARLOS V. UNITED STATES
13-10326 THOMAS, CALVIN L. V. TENNESSEE
13-10328 ORTIZ, NATHANIEL L. V. UNITED STATES
13-10329 BAPTISTE, KENNETH E. V. FOULK, ACTING WARDEN
13-10336 ACEVEDO-BECERRA, ROGELIO V. UNITED STATES
13-10338 SANCHEZ, FRANCIS X. V. UNITED STATES
13-10348 SANDOVAL, YESI I. V. UNITED STATES
13-10359 MAUSALI, UIESE V. UNITED STATES

The petitions for writs of certiorari are denied.

12-1485 ARAB BANK, PLC V. LINDE, COURTNEY, ET AL.

The motion of The Hashemite Kingdom of Jordan for leave to file a brief as *amicus curiae* is granted. The motion of The Union of Arab Banks for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

13-318 O'NEILL, JOHN P., ET AL. V. AL RAJHI BANK, ET AL.

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

13-787 MISSOURI, EX REL. KCP&L V. MO PUBLIC SVC. COMM'N, ET AL.

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

13-899 FAMILY DOLLAR STORES, INC. V. SCOTT, LUANNA, ET AL.

The motion of the Retail Litigation Center, Inc. for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

13-1146 SAUDI ARABIA, ET AL. V. FEDERAL INSURANCE CO., ET AL.

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

13-1270 E. M. B. R. V. S. M., ET UX.

The motion of The Young Center for Immigrant Children's Rights, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

13-1280 DAVIS, THOMAS G., ET AL. V. PENSION BENEFIT GUARANTY CORP.

The motion of Delta Pilots' Pension Preservation Organization (DPS3, Inc.) for leave to file a brief as *amicus curiae* is granted. The motion of The Coalition of Airline Pilots Associations, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

13-9810 FULLER, CURTIS V. HUSS, ERICA, ET AL.
13-9865 MOHSEN, AMR V. WU, CAROL
13-9881 NIXON, TRACY V. GOLDMAN SACHS MORTGAGE CORP.

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.

13-10128 BARBER, ELLIS H. V. CIRCUIT COURT OF MD, 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. Justice Kagan took no part in the consideration or decision of this motion and this petition.

13-10304 SMITH, TYREE T. V. UNITED STATES

13-10325 TAYLOR, DAVE A. V. UNITED STATES

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

HABEAS CORPUS DENIED

13-10366 IN RE JOSEPH R. FLYING HORSE

13-10408 IN RE GOMEZ COOK

13-10418 IN RE LARRY COPELAND

13-10463 IN RE MAURICE R. ARCHER

The petitions for writs of habeas corpus are denied.

REHEARINGS DENIED

13-8221 NGUYEN, NHUONG V. V. SUPERIOR COURT OF CA

13-8520 SMITH, LESLIE G. V. DIAZ, WARDEN

13-8710 ENRIQUEZ, JUAN R. V. TEXAS

13-8780 CAMPBELL, JERMAINE J. V. NEVADA

13-8819 McKEITHER, KEVIN V. FOLINO, LOUIS, ET AL.

13-8872 BARASHKOFF, IVAN V. SEATTLE, WA, ET AL.
13-8873 BOOSE, OTIS B. V. ILLINOIS
13-8924 SMITH, MARVIN B., ET UX. V. COUNTRYWIDE HOME LOANS, INC.
13-9128 CARMONA, LEO P. V. MACLAREN, WARDEN
13-9129 DE MEDEIROS, JULIAN G. V. CALIFORNIA

The petitions for rehearing are denied.

Statement of ALITO, J.

SUPREME COURT OF THE UNITED STATES

MOUNT SOLEDAD MEMORIAL ASSOCIATION *v.*
STEVE TRUNK, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI BEFORE JUDGMENT
TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH
CIRCUIT

No. 13–1061. Decided June 30, 2014

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

Statement of JUSTICE ALITO respecting the denial of the petition for a writ of certiorari before judgment.

This case came before us two years ago, see 567 U. S. ____ (2012), and at that time I issued a statement respecting the denial of certiorari. I noted that although the “Court’s Establishment Clause jurisprudence is undoubtedly in need of clarity,” certiorari was not yet warranted in this case “[b]ecause no final judgment has been rendered and it remains unclear precisely what action the Federal Government will be required to take.” *Id.*, at ____ (slip op., at 2, 3).

Since that time, the District Court has issued an order requiring the memorial to be removed, but it has stayed that order pending appeal. The Court of Appeals has not yet reviewed that order on appeal. Seeking to bypass that step, petitioner seeks certiorari before judgment. In my view, it has not met the very demanding standard we require in order to grant certiorari at that stage. In light of the stay, any review by this Court can await the decision of the Court of Appeals. I therefore agree with the Court’s decision to deny the petition.