

(ORDER LIST: 580 U.S.)

MONDAY, DECEMBER 12, 2016

CERTIORARI -- SUMMARY DISPOSITIONS

15-978 SYSTEMS, INC. V. NORDOCK, INC.

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 *Samsung Electronics Co. v. Apple, Inc.*, 580 U. S. ____ (2016).

16-204 FTS USA, LLC, ET AL. V. MONROE, EDWARD, 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 Sixth Circuit for further consideration in light of *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. ____ (2016).

ORDERS IN PENDING CASES

16M62 VILLARREAL-SOLIS, HUGO V. UNITED STATES

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

16M63 JOSEPH, RAFAEL A. V. PA DEPT. OF PUB. WELFARE, ET AL.

16M64 SANDERS, DEBORAH J. V. RAWSKI, WARDEN

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

15-9260 DEAN, LEVON V. UNITED STATES

The motion of petitioner for appointment of counsel is granted. Alan G. Stoler, Esquire, of Omaha, Nebraska, is

appointed to serve as counsel for the petitioner in this case.

16-54 ESQUIVEL-QUINTANA, JUAN V. LYNCH, ATT'Y GEN.

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

16-504 BELL, TERESA V. BLUE CROSS AND BLUE SHIELD OF OK, ET AL.

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

16-6562 SHAH, SHANTU N. V. SOLARC, INC., ET AL.

16-6730 JAFARI, MARYAM V. UNITED STATES

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until January 3, 2017, 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

15-1474 BARAS, HUGH L. V. UNITED STATES

15-1511 RILEY, DAVID V. UNITED STATES

15-8114 TYLER, JAMES V. LOUISIANA

15-9329 STOKES, SAMMIE L. V. SOUTH CAROLINA

15-9907 CAMPBELL, WALTER V. ILLINOIS

16-267) DIRECT MARKETING ASSOCIATION V. BROHL, BARBARA
)

16-458) BROHL, BARBARA V. DIRECT MARKETING ASSOCIATION

16-283) GILCHRIST, SCOTT V. NATIONAL FOOTBALL LEAGUE, ET AL.
)

16-413) ARMSTRONG, RAYMOND, ET AL. V. NFL, ET AL.

16-284 GREENBERG, MAURICE R., ET AL. V. NEW YORK, ET AL.

16-301 RAINEY, TIMOTHY A. V. MSPB, ET AL.

16-332 APOTEX INC., ET AL. V. AMGEN INC., ET AL.

16-432 NERO, FRANKLIN J. V. MAYAN MAINSTREET, ET AL.

16-433 FREIDZON, MAX V. OAO LUKOIL, ET AL.

16-436 FRAZIER-WHITE, DELORIS V. GEE, SHERIFF

16-438 LOPEZ, ROBERT S. V. PHOENIX, AZ, ET AL.

16-440 TRI-CORP HOUSING INC. V. BAUMAN, ROBERT

16-443 SHOTT, SUSAN V. RUSH UNIV. MEDICAL CENTER

16-444 SIMON, CHARLES V. DEPT. OF JUSTICE, ET AL.

16-448 CORNISH, MICHAEL V. BROOKLINE, VT

16-453 KUPERSMIT, BARBARA A. V. CIR

16-462 FLINT, EDWARD H. V. WILLETT, JUDGE, ETC., ET AL.

16-469 KIMBALL, RICHARD W., ET AL. V. ORLANS ASSOCIATES P.C., ET AL.

16-480 AFZAL, FIAZ V. LYNCH, ATT'Y GEN.

16-503 SAN DIEGO NAVY BROADWAY V. DEPT. OF DEFENSE, ET AL.

16-505 COMPART'S BOAR STORE, INC. V. UNITED STATES

16-514 ROMANOFF EQUITIES, INC. V. UNITED STATES

16-565 KIMBERLY-CLARK CORP. V. MN COMMISSIONER OF REVENUE

16-574 FLINT, EDWARD H. V. MARX, GERALD

16-586 VAN HOUTEN, RICHARD, ET AL. V. FORT WORTH, TX

16-599 TAYLOR, CHRISTIAN D. V. UNITED STATES

16-609 SEXTON, JAMES V. UNITED STATES

16-5074 PETERMAN, ROGER H. V. UNITED STATES

16-5337 RANDOLPH, BARRY, ET UX. V. SOLUTIA, INC.

16-5583 VELASQUEZ-HUIPE, JOSE L. V. UNITED STATES

16-5840 MOLESKI, DAVID V. UNITED STATES

16-6315 CAMP, KRISS R. V. DAVIS, DIR., TX DCJ

16-6318 SEIBERT, STEVEN J. V. CRICKMAR, WARDEN

16-6320 MORRIS, MEECHEE V. SMITH, WARDEN

16-6324 CASTILLO-ALVAREZ, JUAN H. V. MINNESOTA

16-6325 PALAFOX-DOMINGUES, HITZEL V. INDIANA

16-6329 WILLIAMS, STEVEN V. FLORIDA
16-6332 KING, MICHAEL D. V. MICHIGAN
16-6337 CRUZ, ELADIO V. JURDEN, PRESIDENT JUDGE, ETC.
16-6338 ECKERT, SCOTT W. V. MISSOURI
16-6352 MOSES, PAMELA V. FALKNER, REGINALD, ET AL.
16-6353 O'KEEFE, BRIAN K. V. NEVADA
16-6354 MORRISON, WILLIAM T. V. KOSTER, CHRIS
16-6356 PAIGE, RICHARD W. V. TEXAS
16-6358 MAYFIELD, MARCUS J. V. TEXAS
16-6393 BUHL, LEROY V. DOJ, ET AL.
16-6394 CRUMP, THOMAS W. V. NEVADA
16-6458 PATTON, KENNETH V. NEVADA, ET AL.
16-6468 WILKERSON, NORMAN K. V. CHESTERFIELD COUNTY, VA, ET AL.
16-6516 LaMONT, MYRROI V. CALIFORNIA
16-6521 TRICOME, DOMENIC V. PENNSYLVANIA
16-6548 SMITH, GARNETT G. V. UNITED STATES
16-6591 JUAREZ, DANIEL V. UNITED STATES
16-6593 MORALES, JOEL V. UNITED STATES
16-6596 MOHAMMED, AWAL V. UNITED STATES
16-6601 GILL, REYMOND E. V. UNITED STATES
16-6602 GALEANA-SALMERON, DALIA V. UNITED STATES
16-6605 GAFFNEY, KEITH E. V. UNITED STATES
16-6606 HILL, DAVID V. UNITED STATES
16-6609 GREEN, DEMETRIUS V. UNITED STATES
16-6611 GARCIA, TEDDY V. UNITED STATES
16-6643 STRECKER, ROBERT V. UNITED STATES
16-6647 SHELL, HENRY V. UNITED STATES
16-6648 SAUNDERS, CHRISTOPHER V. UNITED STATES

16-6657 HERNANDEZ, CESAR N. V. YATES, WARDEN
16-6661 NAVA-ARELLANO, ISRAEL V. UNITED STATES
16-6665 SCAGGS, DAVID V. UNITED STATES
16-6668 ROBERTS, JAMES P. V. UNITED STATES
16-6670 PUZEY, MICHAEL P. V. WARDEN, FCC ALLENWOOD
16-6674 GARRISON, JEFFREY V. JONES, SEC., FL DOC, ET AL.
16-6677 THOMAS, FREDERICK V. UNITED STATES
16-6680 DILLARD, TITUS K. V. UNITED STATES
16-6685 NOEL, KEVELIN V. UNITED STATES
16-6692 MATIAS, SANDRA M. V. UNITED STATES
16-6693 JACKSON, MARQUIS V. SEMPLE, COMM'R, CT DOC
16-6703 TUBBS, WESLEY B. V. UNITED STATES
16-6707 SINGH, AMAN D. V. WISCONSIN
16-6709 OCASIO-RUIZ, KYVANI V. UNITED STATES
16-6712 ABAD, EDUARDO V. UNITED STATES
16-6713 BEY, PAUL V. UNITED STATES
16-6729 MAYES, ANTOINE V. UNITED STATES
16-6732 ALLEN, MARCUS V. UNITED STATES
16-6733 McDONALD, TYRONE A. V. UNITED STATES
16-6734 MORGAN, NICHOLAS V. BRADT, SUPT., ATTICA, ET AL.
16-6739 WYNN, ALPHONSO V. UNITED STATES
16-6749 SCOTTON, ROGERIO C. V. UNITED STATES
16-6750 SANDUSKY, AARON V. UNITED STATES
16-6760 WRIGHT, SAMSON V. UNITED STATES
16-6762 McKENZIE, TROY V. UNITED STATES

The petitions for writs of certiorari are denied.

15-9708 DAKER, WASEEM V. GEORGIA

The motion of petitioner for reconsideration of order

denying leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

16-431 WALSH, RORY M. V. GEORGE, BRIAN J., ET AL.

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

16-5580 BROOM, ROMELL V. OHIO

The petition for a writ of certiorari is denied. Justice Breyer and Justice Kagan would grant the petition for a writ of certiorari.

16-6179 CORRION, JOHN V. BERGH, WARDEN

16-6340 CARBAJAL, DEAN V. FALK, WARDEN, ET AL.

16-6461 PIANKA, VICTOR V. ARIZONA

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.

16-6691 TIEU, CUONG M. V. UNITED STATES

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

MANDAMUS DENIED

16-6638 IN RE JOSEPH R. JORDAN

The petition for writ of mandamus is denied.

REHEARINGS DENIED

15-9319 DANIEL, JOSEPH A. V. LYNCH, ATT'Y GEN.

15-9523 GOLF, MABEL M. V. NYC DEPT. OF FINANCE, ET AL.

15-9611 SORO, LUIS A. V. LOPEZ, PEDRO J.

15-9652 BECKHAM, COREY L. V. VIRGINIA

15-9655 SPEAR, STEVEN A. V. JONES, SEC., FL DOC, ET AL.
15-9853 HOWELL FOSTER, REGINA N. V. HOLDER, AREYA
15-9916 LoPINTO, DAVID S. V. DAVIS, DIR., TX DCJ
16-120 AVOKI, FRANCISCO K., ET UX. V. FEREBEE, LARRY E., ET AL.
16-197 COULTER, JEAN V. SUPERIOR COURT OF PA
16-5104 IVEY, JOE L. V. NY HIGHER EDUCATION SERVICES
16-5177 JOHNSON, BUTCH V. PALMETTO CITIZENS FEDERAL CREDIT
16-5217 REYNOLDS, VICTOR E. V. DAVIS, DIR., TX DCJ
16-5288 IN RE RAMON WILLIAMSON
16-5326 JOHNSON, CHARLETTE D. V. UNITED STATES
16-5466 HAMMER, ROBIN W. V. HAMMER, ROBERT B., ET AL.
16-5489 ZHOU, WEI V. MARQUETTE UNIVERSITY
16-5525 PETROVIC, JOVICA V. UNITED STATES
16-5541 LIU, SIXING V. UNITED STATES
16-5576 SAYERS, JERRY V. POWELL, B.
16-5661 REEDY, THOMAS V. UNITED STATES
16-5666 RUIZ, JOSE V. HARRY, SUPT., CAMP HILL, ET AL.
16-5783 FLORENCE, KIM V. VIKING ASSOCIATES
16-6202 SONG, WENFO V. OBAMA, PRESIDENT OF U.S.
16-6241 DONALDSON, COREY A. V. UNITED STATES

The petitions for rehearing are denied.

16-5137 IN RE ANTONIO AKEL

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

ATTORNEY DISCIPLINE

D-2944 IN THE MATTER OF DISCIPLINE OF WILLIAM LAWRENCE SUMMERS

William Lawrence Summers, of Cleveland, Ohio, 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-2945

IN THE MATTER OF DISCIPLINE OF HARRIS C. LEGOME

Harris C. Legome, of Haddonfield, New Jersey, 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.

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATES

HENRY PERRY SIRECI *v.* FLORIDA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF FLORIDA

No. 16–5247. Decided December 12, 2016

The petition for a writ of certiorari is denied.

JUSTICE BREYER, dissenting from denial of certiorari.

Henry Sireci, the petitioner, was tried, convicted of murder, and first sentenced to death in 1976. He has lived in prison under threat of execution for 40 years. When he was first sentenced to death, the Berlin Wall stood firmly in place. Saigon had just fallen. Few Americans knew of the personal computer or the Internet. And over half of all Americans now alive had not yet been born. See Dept. of Commerce, Bureau of Census, Annual Estimates of the Resident Population for Selected Age Groups by Sex: April 1, 2010 to July 1, 2015 (June 2016), online at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=PEP_2015_PEPAGESEX&prodType=table (all Internet materials as last visited Dec. 9, 2016).

Forty years is more time than an average person could expect to live his entire life when America constitutionally forbade the “inflict[ion]” of “cruel and unusual punishments.” Amdt. 8; see 5 Dictionary of American History 104 (S. Kutler ed., 3d ed. 2003). This Court, speaking of a period of *four weeks*, not 40 years, once said that a prisoner’s uncertainty before execution is “one of the most horrible feelings to which he can be subjected.” *In re Medley*, 134 U. S. 160, 172 (1890). I should hope that this kind of delay would arise only on the rarest of occasions. But in the ever diminishing universe of actual executions, I fear that delays of this kind have become more common. The number of yearly executions has fallen from its peak of

BREYER, J., dissenting

98 in 1999 to 19 so far this year, while the average period of imprisonment between death sentence and execution has risen from 12 years to over 18 years in that same period. See Death Penalty Information Center (DPIC), Facts about the Death Penalty, online at <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf> (updated Dec. 7, 2016); Dept. of Justice, Bureau of Justice Statistics, T. Snell, Capital Punishment, 2013—Statistical Tables, p. 14 (rev. Dec. 19, 2014) (Table 10); DPIC Execution List 2016, online at <http://www.deathpenaltyinfo.org/execution-list-2016>.

Nor is this case the only case during the last few months in which the Court has received, but then rejected, a petition to review an execution taking place in what I would consider especially cruel and unusual circumstances. On September 15, 2009, the State of Ohio attempted to execute Romell Broom by lethal injection. *State v. Broom*, 146 Ohio St. 3d 60, 61–62, 2016-Ohio-1028, 51 N. E. 3d 620, 623. Medical team members tried for over two hours to find a useable vein, repeatedly injecting him with needles and striking bone in the process, all causing “a great deal of pain.” *Id.*, at 62, 51 N. E. 2d, at 624. The State now wishes to try to execute Broom once again. Given its first failure, does its second attempt amount to a “cruel and unusual” punishment? See *In re Kemmler*, 136 U. S. 436, 447 (1890) (“Punishments are cruel when they involve . . . a lingering death”). I would have heard Broom’s claim.

As I and other Justices have previously pointed out, individuals who are executed are not the “worst of the worst,” but, rather, are individuals chosen at random, on the basis, perhaps of geography, perhaps of the views of individual prosecutors, or still worse on the basis of race. See *Glossip v. Gross*, 576 U. S., ___, ___–___ (2015) (BREYER, J., joined by GINSBURG, J., dissenting) (slip op., at 9–17); *Furman v. Georgia*, 408 U. S. 238, 309–310 (1972) (Stewart, J., concurring) (“These death sentences

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are cruel and unusual in the same way that being struck by lightning is cruel and unusual. For, of all the people convicted of [death-eligible crimes], many just as reprehensible as these, the[se] petitioners are among a capriciously selected random handful upon who the sentence of death has in fact been imposed.” (footnote omitted). Cf. *Smith v. Alabama*, 580 U. S. ____, (Dec. 8, 2016) (judge overrode jury’s recommendation of a life sentence) (this Court, by an equally divided vote, denied a stay of execution).

I have elsewhere described these matters at greater length, and I have explained why the time has come for this Court to reconsider the constitutionality of the death penalty. *Glossip, supra*, at ____ (dissenting opinion); see also *Knight v. Florida*, 528 U. S. 990, 993 (1999) (opinion dissenting from denial of certiorari); *Valle v. Florida*, 564 U. S. 1067 (2011) (opinion dissenting from denial of stay); *Boyer v. Davis*, 578 U. S. ____, ____ (2016) (opinion dissenting from denial of certiorari); *Conner v. Sellers*, 579 U. S. ____ (2016) (opinion dissenting from denial of certiorari and denial of stay). Cases such as the ones discussed here provide additional evidence that it is important for us to do so. See *Lackey v. Texas*, 514 U. S. 1045 (1995) (Stevens, J., memorandum respecting denial of certiorari). I would grant this petition for certiorari, as I would in *Broom v. Ohio*, No. 16–5580, and *Smith*, and include this question.