

Supreme Court, U.S.
FILED

06-310 SEP 1 - 2006

OFFICE OF THE CLERK
In the Supreme Court of the United States

MOHAMMAD ABU HASHISH,

Petitioner,

v.

ALBERTO GONZALES,
ATTORNEY GENERAL,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Since Congress failed to provide a statutory definition for what is a crime involving moral turpitude, the Board of Immigration Appeals and circuit courts have patched together various differing interpretations in attempting to define its terms. The question presented is twofold: (1) what is a crime involving moral turpitude and; (2) whether a non-traditional theft offense, in this case theft of a recordable sound, falls into the definition of a crime involving moral turpitude.

Supreme Court, U.S.
FILED

No. _____ 06-311 AUG 29 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

—◆—
HOWARD MILLER,

Petitioner,

v.

COMMODITY FUTURES TRADING COMMISSION,

Respondent.

—◆—
**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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311

QUESTIONS PRESENTED

1. Whether the respondent Agency's civil monetary penalty assessment complies with 7 U.S.C. § 9a;
2. Whether the respondent Agency abused its discretion when it assessed a civil monetary penalty;
3. Whether the respondent Agency sanctions which include a revocation of his commodity license, a permanent lifetime trading ban and a \$350,000 civil monetary penalty violates the U.S. Constitution's Eighth Amendment as being unduly excessive, cruel and unusual, arbitrary and capricious and an abuse of discretion and/or in violation of the U.S. Constitution's Eighth Amendment;
4. Whether the respondent Agency's \$350,000 civil monetary penalty, which includes the assessment of a penalty for "inflation" violates the U.S. Constitution's Eighth Amendment as being unduly excessive, cruel and unusual, arbitrary and capricious and an abuse of discretion and/or in violation of the U.S. Constitution's Eighth Amendment, when the respondent Agency was the cause of the delay.
5. Whether the Agency met the requirements of the Ninth Circuit's directives on Remand as set forth in December 20, 1999 Opinion (hereinafter referred to as "Ninth Circuit's 1999 Opinion").¹

¹ *Miller v. Commodity Futures Trading Commission*, 197 F.3d 1227 (9th Cir. 1999).

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(2)

QUESTIONS PRESENTED – Continued

6. Whether the 9th Circuit's decision erred in not reversing the respondent Agency's arbitrary finding that petitioner waived his statutory right to have his net worth considered in the assessment of a civil monetary penalty arbitrary and capricious and an abuse of discretion and/or in violation of the U.S. Constitution's Eighth Amendment;

7. Whether the respondent Agency's error is of the nature to justify an exception to the policy of deference.

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Supreme Court, U.S.
FILED

No. 06- 06-313 AUG 29 2006
(CAPITAL CASE)

OFFICE OF THE CLERK

In the
SUPREME COURT OF THE UNITED STATES

DONALD P. ROPER,
Superintendent, Potosi Correctional Center,
Petitioner,

v.

WILLIAM WEAVER,
Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

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313

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QUESTION PRESENTED FOR REVIEW
(Capital Case)

Since this court has neither held a prosecutor's penalty phase closing argument to violate due process, nor articulated, in response to a penalty phase claim, what the standard of error and prejudice would be, does a court of appeals exceed its authority under 28 U.S.C. §2254(d)(1) by overturning a capital sentence on the ground that the prosecutor's penalty phase closing argument was "unfairly inflammatory?"

Supreme Court, U.S.
FILED

06-315 SEP 1 - 2006

No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

HILLSBOROUGH COUNTY, FLORIDA, PETITIONER

v.

KENNETH L. BURTON, JULIUS HENRY, JR., HOLLIS
DAVIS, WAYNE E. POOLE,

*PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

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315

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QUESTION PRESENTED

Whether under the Portal-to-Portal Act, as amended by the Employee Commuting Flexibility Act of 1996 ("ECFA"), an employee's time spent commuting to the job site in an employer-issued vehicle is non-compensable even though the employer required the vehicle be parked overnight at a secure parking lot?

Supreme Court, U.S.
FILED

06-316 AUG 30 2006

No. _____

OFFICE OF THE CLERK

IN THE SUPREME COURT
OF THE UNITED STATES

SHERRY WOODARD,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

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

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

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316

QUESTIONS PRESENTED

- I. Whether this Court should grant certiorari to resolve the circuit split created by the Eighth Circuit's rejection of this Court's *Falcone* decision to hold that sale of a lawful item by an established retailer is sufficient to prove the vendor's knowing and voluntary joinder in a conspiratorial agreement among the purchaser and others to manufacture and distribute an illegal product using the item as an ingredient, where the contrary position has been adopted by eight other circuits.

- II. Whether this Court should grant certiorari to correct the Eighth Circuit's denial of an accused's Sixth Amendment right to a jury trial on the facts relevant to the application of 18 U.S.C. § 3553(f) which was recognized by this Court's "substantive" decision in *United States v. Booker*, 543 U.S. 220 (2005), and was unaffected by the "remedial" decision in *Booker*.

Supreme Court, U.S.
FILED

06-318 AUG 31 2006

No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

CATALINA ALTAMIRANO HERNANDEZ,
Petitioner,

v.

ALBERTO R. GONZALES, Attorney General,
Respondent.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the conflict among the federal circuits in regards to how to determine whether a state drug conviction qualifies as an aggravated felony under federal law counter Congress' intent to have uniform application of immigration laws?
2. Was Petitioner's state conviction properly classified as an aggravated felony under federal law?
3. Does a judgement by a state court, which pursuant to a state rehabilitative statute, withdraws a plea of guilty and enters a plea of not guilty (and dismisses the case in its entirety), eliminate the consequences of such conviction so as to make Petitioner eligible for treatment under the Federal First Offender Act?

Supreme Court, U.S.
FILED

No. : _____ **06-319** SEP 1 - 2006

In the **OFFICE OF THE CLERK**
Supreme Court of the United States



EDWIN FERNANDEZ,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT**

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QUESTIONS PRESENTED

A. Whether the conscious avoidance charge given to the jury by the trial judge in a specific offense case was improper in that it lowered the burden of proof to a negligence standard in a case involving a Title 18 United States Code §1956(3)(A) prosecution and therefore denied the Petitioner a fair trial as guaranteed by the due process clause of the Fifth Amendment of the Constitution.

Supreme Court, U.S.
FILED

06 - 320 SEP 5 - 2008

No. OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

ABLE BUILDING MAINTENANCE CO., PETITIONERS

v.

BOARD OF TRUSTEES OF GENERAL EMPLOYEES TRUST
FUND

*PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does an employer who is bound to a Trust Indenture governed by the Employee Retirement and Income Security Act 29 U.S.C. §1132 and the Labor Management Relations Act 29 U.S.C. §185 which contains an specific arbitration clause waive it's right to contest arbitrability by objecting to arbitration and refusing to arbitrate the matter?
2. Is the question of arbitrability a decision for the court and not the arbitrator, if one party to the contract objects to the arbitration on arbitrability grounds and refuses to participate in the arbitration?
3. Does a party's failure to appear at an arbitration hearing for whatever reason, constitute a waiver of the right to assert that it was not obligated to arbitrate in the first instance?

Supreme Court, U.S.
FILED

06-321 JUN 18 2006

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

ROBERT LEE BROADNEX
PETITIONER

VERSUS

STATE OF CALIFORNIA
RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE STATE
OF CALIFORNIA

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Questions presented

I. Whether factually innocent petitioner was denied a fair trial because the sole eyewitness to the shooting lied and petitioner's conviction for second-degree murder rested on the testimony of three eyewitnesses, only one of whom testified to seeing the actually shooting. She later recanted, saying that she relied on the statement to her of another witness describing the shooting, but that she had not seen the shooting. Her recantation casts doubt on all the evidence in the case. The other witnesses did not see the shooting.

II. Whether factually innocent Petitioner is entitled to relief where the police or a prosecution witness dissuaded the supposed eyewitness from recanting during the trial where there is no question that one of the state's key witnesses told the "eyewitness" to stick to her story. She claims also that police and the witness threatened her if she changed her story, although the story was not true.

III. Whether it is sufficient to require reversal of the conviction even if petitioner cannot show that the state knew the testimony was false; although the record is clear that the eyewitness recanted and that she told multiple stories to the police, Petitioner cannot now show that the police knew the testimony was false at the time Petitioner was tried. Petitioner suggests that reversal and remand are required pursuant to *Napue v. Illinois* 360 U.S. 264 (1959) and *Alcorta v. Texas* 355 U.S. 28.

Supreme Court, U.S.
FILED

06-322 AUG 31 2006

No. _____

OFFICE OF THE CLERK

In The
Supreme Court of the United States

RONALD W. MORTERS,

Petitioner,

v.

AIKEN & SCOPTUR, S.C., TIMOTHY J. AIKEN,
PAUL J. SCOPTUR AND KELLY I. CENTOFANTI,

Respondents.

**On Petition For Writ Of Certiorari
To The Wisconsin Court Of Appeals, District I**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

- I. Did the Wisconsin Court of Appeals' failure to remand the appellate frivolity matter for consideration as to whether Aiken & Sceptur's request violated Wisconsin Statutes, Sec. 814.025, and the Wisconsin Supreme Court's failure to rectify this error violate Ronald W. Morters' rights to due process of law and equal protection of the law as guaranteed by the Fourteenth Amendment of the United States Constitution and Article I, Sec. 1, of the Wisconsin Constitution?

Supreme Court, U.S.
FILED

No. 06-324 SEP 6 - 2006

In the OFFICE OF THE CLERK
Supreme Court of the United States

BLUE CROSS & BLUE SHIELD OF MICHIGAN,
Petitioner,

v.

MICHAEL A. GENORD, M.D.; JOHN R. SANBORN, M.D.;
PAULA M. FISHBAUGH, M.D.; ANDREA L. SCHILLER, M.D.;
MARK D. DYKOWSKI, M.D.; JOHN E. ECKELE, M.D.;
BETTY S. CHU, M.D.,
Respondents.

**On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Sixth Circuit**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

In *United States Department of Treasury v. Fabe*, this Court confirmed that Congress' intent in enacting § 2(b) of the McCarran-Ferguson Act was to establish the states' "broad regulatory authority over the business of insurance." Did the Sixth Circuit depart from this Court's decision in *Fabe* when it held that Michigan's law mandating and regulating reimbursement arrangements between Petitioner Blue Cross & Blue Shield of Michigan and medical providers for the express statutory purpose of ensuring policyholders reasonable access to quality health care at a reasonable cost was not protected from preemption under the McCarran-Ferguson Act as a state law "enacted . . . for the purpose of regulating the business of insurance"?

Supreme Court, U.S.
FILED

No. _____

~~06-326~~ AUG 14 2006

In The OFFICE OF THE CLERK
Supreme Court of the United States

PHILLIP JACKSON
and
PMJ FAMILY LIMITED PARTNERSHIP,
Petitioners,

v.

GLENAYRE ELECTRONICS, INC.,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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326

QUESTIONS PRESENTED FOR REVIEW

- 1.) Whether a manufacturer found to directly infringe a patent may also be liable for indirect infringement
- 2.) Whether a patentee receiving a judgment for infringement against a manufacturer has received full compensation for infringement in the absence of a judicial determination of the total amount of damages available from all joint tort feasons.
- 3.) Whether additional liability for the infringing use or resale of a patented invention is independent of whether the infringing manufacturer has already paid the judgment based on its own infringing sales.

Supreme Court, U.S.
FILED

No. 06-328 SEP 6 - 2006

IN THE OFFICE OF THE CLERK
Supreme Court of the United States

JOHN H. CARNEY; JAMES R. FISHER,
PETITIONERS

v.

UNITED STATES OF AMERICA; OFFICE OF
THRIFT SUPERVISION; FEDERAL BUREAU OF
INVESTIGATION, One or more unknown officials of the
Department of Justice, Federal Bureau of Investigation;
FRED TEED; ROLF D. COBURN, also known as Rolf
Nordstrom; KAREN BRUTON; KEN KLEIN;
RICHARD RICCABONO; VINCENT G. FAZZIO;
JENNIFER GANT; BRAD LAMBERT; RICHARD H.
KAMP; PAMELA I. DEMPSEY; JACK HINTON;
EDWARD KRAMER,

*PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Court of Appeals failed to conduct a *de novo* review of the district court's grant of summary judgment in favor of the defendants.
2. Whether the Court of Appeals failed to conduct a *de novo* review of the trial court's 12(b) dismissal of Petitioner's state tort claims presented under the Federal Tort Claim Act.
3. Whether violations of the constitutional "fair trial" rights not to be convicted through the use of evidence falsified by the government, *Napue v. Illinois*, 360 U.S. 264 (1959)), and not to be deprived of exculpatory/impeachment evidence, as recognized in *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972), give rise to a federal claim for damages against federal investigative officers who participated in the denial of such rights.
4. Whether the mandates of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), *Giglio v. United States*, 405 U.S. 150, 154, 92 S.Ct. 763, 766, 31 L.Ed.2d 104 (1972), and *Napue v. Illinois*, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959), extend to federal investigative officers and members of the prosecution team for purposes of imposing civil liability in a *Bivens*-type action, *Bivens v. Six Unknown Named Agents Of Federal Bureau Of Narcotics*, 403 U.S. 388; 91 S. Ct. 1999; 29 L. Ed. 2d 619 (1971).

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(2)

5. Whether federal investigative officers are immune from *Bivens* claims for damages for violations of *Brady, Giglio, and Napue*.
6. Whether the district court's application of the Westfall Act, 28 U.S.C. § 2679(d)(5), was incorrect in limiting the Act's applicability only to situations where the plaintiff has "no knowledge of a federal presence".

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