

Supreme Court, U.S.
FILED

No. **06-357** SEP 8 - 2006

OFFICE OF THE CLERK

In The
Supreme Court of the United States

MICHAEL C. ARMSTRONG,

Petitioner,

v.

STATE OF INDIANA,

Respondent.

**On Petition For A Writ Of Certiorari
To The Indiana Supreme Court**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Is a person (presumed to know the law) chargeable with knowledge that a decision of an appellate court is wrong?

Supreme Court, U.S.
FILED

06 - 359 JUN 28 2006

NO. 05-
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE
UNITED STATES

DAVISS COUNTY, KENTUCKY
Petitioner

v.

NATIONAL SOLID WASTES MANAGEMENT
ASSOCIATION
Respondent

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

In *C & A Carbone, Inc. v. Town of Clarkstown*, 511 U.S. 383 (1994), this Court held that a “flow control” ordinance violated the dormant Commerce Clause. In *United Haulers Assoc., Inc. v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 261 F.3d 245 (2nd Cir. 2001), the Court interpreted *Carbone* as applicable only if a state or local ordinance favored local private business interests over out-of-state interests. Based upon the interpretation of *Carbone* in the *United Haulers* case, which was not adopted by the Sixth Circuit here, the question presented is:

Whether Daviess County’s ordinance, which directed all solid waste generated within Daviess County to be deposited in Daviess County’s publicly owned landfill, violated the Commerce Clause.

Supreme Court, U.S.
FILED

No. 06-361 SEP 11 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

DON WALTON,

Petitioner,

v.

TESUQUE PUEBLO et al.,

Respondents.

**On Petition For A Writ Of Certiorari
To The Court Of Appeals
For The Tenth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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301

QUESTIONS PRESENTED

1. Whether *Santa Clara Pueblo v. Martinez*, 436 U.S. 39 (1978) precludes federal review, other than *habeas* review pursuant to 25 U.S.C. 1303, of deprivations without due process of law by Indian tribes of liberty or property of non-tribal persons.

2. Whether, on a 12(b)(1) challenge to *habeas* jurisdiction under 25 U.S.C. 1303, hotly disputed facts may be resolved against the party opposing the challenge absent a fact inquiry.

3. Whether 25 U.S.C. 450f(c) of the Indian Self Determination and Education Assistance Act (ISDEAA) requiring the waiver of sovereignty defenses in insurance coverage for the benefit of third parties aggrieved by ISDEAA-funded agencies; 25 U.S.C. 450l(c) [ISDEAA Model Contract] (b)(13) requiring that the laws, policies and procedures of the contractor shall provide for administrative due process or its equivalent; or 25 U.S.C. 450l(c) [ISDEAA Model Contract] (c)(5) requiring a forum for grievances brought by program beneficiaries are operative.

Supreme Court, U.S.
FILED

No. **06-363** SEP 11 2006

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

—◆◆◆—
GURMEET SINGH DHINSA,

Petitioner,

v.

AL HERRERA, Warden,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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** Counsel of Record*

363

QUESTIONS PRESENTED

Where a criminal defendant, who is serving a life sentence, timely files a habeas corpus petition complaining that his counsel denied him the right to testify on his own behalf, in violation of the Fifth and Sixth Amendments, can he be forever barred from having the merits of those constitutional claims reviewed merely because his attorney erroneously filed the petition in the wrong judicial district — and the district court mistakenly dismissed the timely-filed petition, instead of *transferring* it to the proper district as required by 28 U.S.C. § 1631, which provides that the court “shall” transfer the proceeding to the right district if it is in the interest of justice?

Should there be a judicially construed “tolling” provision to accommodate procedural failures that are not attributable to a habeas petitioner?

Supreme Court, U.S.
FILED

No. 06- 06 - 364 SEP 12 2006

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

THE DELAWARE NATION,

Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA, *et al.*,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioner, the Delaware Nation (the "Delawares" or "Petitioner"), has asserted the following alternative theories to recover tribal land: (1) Unextinguished fee-based land title subject to the protection of the Indian Non-Intercourse Act of 1799; (2) Unextinguished aboriginal land rights because there was no extinguishment of rights by a sovereign.

The Delawares' fee title/Non-Intercourse Act argument raises an unsettled and very significant legal issue which the Third Circuit Court of Appeals wrongly declined to decide. Further, the Court of Appeals' disposition of the Delawares' aboriginal rights/sovereignty argument was based on an improper finding of waiver, which was made in contravention of federal law and the policy of protecting Indian tribes from being unfairly dispossessed of their land.

The questions presented are:

(1) Whether the Indian Non-Intercourse Act of 1799 applies to land held in fee by a federally recognized Indian tribe.

(2) Whether the Court of Appeals' finding of waiver as to Petitioner's aboriginal rights claim was improper and in contravention of important rules of pleading and of federal law and policy which protect federally recognized Indian tribes asserting claims to tribal land.

Supreme Court, U.S.
FILED

No. _____ 06 - 365 SEP 12 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

IN RE: BOARD OF COMMISSIONERS
OF THE ORLEANS LEVEE DISTRICT,

Petitioner.

**On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit**

PETITION FOR WRIT OF CERTIORARI

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365

QUESTIONS PRESENTED

To date, at least seventeen class action suits, along with many individual lawsuits, have been filed alleging that the Board of Commissioners of the Orleans Levee District and other defendants are responsible for \$200 billion in damages as a result of the levee breaches, which caused catastrophic flooding in the City of New Orleans and portions of Jefferson Parish. The questions presented concern the denial of the defendant's motion to disqualify all of the judges on the United States District Court for the Eastern District of Louisiana under 28 U.S.C. §455(a) and §455(b)(4). Specifically, the questions presented are:

1. Whether §455(a) or §455(b)(4) require that all judges in the Eastern District of Louisiana be disqualified when (1) the case involves responsibility for flood damage during Hurricane Katrina, and (2) when all of the judges were directly and substantially impacted by the flooding.

2. Whether §455(a) or §455(b)(4) require that a procedure exist whereby a party can move to disqualify all of the judges in a district when all of the judges are directly and substantially affected by the events giving rise to the lawsuit.

Supreme Court, U.S.
FILED

No. _____ 06-366 SEP 13 2006

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

—◆—
CESAR ARNOLDO VALDEZ and
HECTOR RAUL VALDEZ,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

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

—◆—
PETITION FOR A WRIT OF CERTIORARI

—◆—
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QUESTION PRESENTED

Whether the Fifth Circuit's opinion in *United States v. Mares*, 402 F.3d 511 (5th Cir. 2005), which conflicts with the United States Supreme Court's opinion in *United States v. Booker*, 543 U.S. 220 (2005) and other federal circuits court of appeals, violates the Sixth Amendment by permitting judges to impose enhanced sentences based on their determination of facts not found by the jury or admitted by the defendant?

Supreme Court, U.S.
FILED

No. _____

06-367 SEP 12 2006

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

YI FENG ZHENG,

Petitioner,

v.

U.S. ATTORNEY GENERAL,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX

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QUESTIONS PRESENTED

1. Whether the Chinese government's outlawing the practice of the Falun Gong and refusal to allow its members to freely practice their religion constitutes persecution on religious of the members of that religion in China.
2. Whether a practitioner of the Falun Gong religion who, as a result of his religious practices, was arrested; imprisoned and subjected to various tortuous indignities for five days; released only after signing a letter denying his religious beliefs and promising never to practice Falun Gong again; and, dismissed from his employment, was subjected to religious persecution.
3. Whether a practitioner of Falun Gong who has already been singled out, arrested and dismissed from his job by the Chinese government for practicing the outlawed Falun Gong religion has a well-founded fear of future persecution in light of the U.S. State Department documenting widespread persecution of Falun Gong practitioners.
4. Whether a mere practitioner of Falun Gong, who is not a leader, has a well founded fear of persecution upon returning to China.

Supreme Court, U.S.
FILED

06-368 SEP 14 2006

No.

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

DAVIDSON MOMAH, PETITIONER

v.

CARI M. DOMINGUE, CHAIR UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION, AND UNITED
STATES EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

*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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QUESTIONS PRESENTED

Federal Courts are sharply divided as to what constitutes an adverse employment action. The decision of the Sixth Circuit improperly held that there is no actionable discrimination and retaliation for denial of hardship transfer which is terms, condition, and privilege of employment (which resulted in the loss of leave, usage of leave, salary, and within-in-grade increase), denial of promotion that was later corrected, denial of selection to similar position, and hostile work environment, if there is no material adverse change to the term, conditions, or privilege of employment. The federal courts need a uniformed application of an "adverse employment" action.

Also, review is necessary to resolve the issue of intentional failure or refusal to investigate a discrimination claim. Several Circuits, including the Sixth Circuit, adopt the view that filing a complaint in the federal court would remedy the lack of investigation. The court further concluded that those issues that were intentionally not investigated or botched investigations are not actionable under any of the Title VII's prohibited basis. However, it is unclear which standard of proof to apply in order to overcome summary judgment for intentional failure to investigate versus a mere delay or negligent investigation.

- I. Whether an employer may be immune from liability for discrimination and retaliatory discrimination under Title VII of the Civil Rights act, as amended, and a claimant be held to an impermissible burden of proof standard for denial of hardship transfers (resulting in loss of salary, leave, within-grade-increase), promotions (was

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(2)

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later promoted without back pay and compensatory damages), and selections (to similar positions) where there is no *materially adverse change* in the terms, conditions and privileges of employment as the court below held; only for an "*ultimate employment decision*" as two other courts of appeals hold, is in conflict with other Circuits Decisions?

- II. Whether a claimant of discrimination and retaliatory discrimination could challenge a court's decline to apply the proper standard and guidelines in granting summary judgment, especially where the courts summarily dismissed the claims without reviewing or addressing some of the material disputed issues that the administrative agency intentionally refused to and/or improperly conducted an investigation in violation of his due process rights?

Supreme Court, U.S.
FILED

No. _____ 06-369 SEP 11 2006

IN THE OFFICE OF THE CLERK

Supreme Court of the United States

STATE OF MISSOURI,

Petitioner,

v.

VINCENT MCFADDEN,

Respondent.

**On Petition For Writ Of Certiorari
To The Missouri Supreme Court**

PETITION FOR WRIT OF CERTIORARI

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CAPITAL CASE

QUESTIONS PRESENTED

Does the leeway this Court afforded state courts in defining procedures to evaluate equal-protection claims under *Batson v. Kentucky*, 476 U.S. 79 (1986), allow a state court to essentially eliminate the defendant's burden of proving purposeful racial discrimination *at trial*, in favor of allowing the defendant to sift through the record after trial and raise new arguments on appeal, at a time when the prosecutor is unable to provide any additional explanation, and at a time when the finder of fact – the trial judge – is not present to rule on any applicable questions of fact?

Does the “totality of relevant facts” test, as recently applied in *Miller-El v. Dretke*, 545 U.S. 231 (2005), permit a reviewing court to analyze the facts *de novo* in determining whether the trial court has clearly erred in finding that the State has not engaged in purposeful racial discrimination?

Supreme Court, U.S.
FILED

No. 06-370 SEP 13 2006

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

JESSIE DORADO, INDIVIDUALLY AND AS MOTHER and
NEXT FRIEND OF BRIANA ALEXIS MIRANDA, A MINOR
and ON BEHALF OF THE ESTATE OF EDUARDO MIRANDA
A/K/A EDUARDO MIRANDA DUARTE, DECEASED,

Petitioners,

v.

THE COUNTY OF EL PASO, TEXAS,

Respondent.

**On Petition for Writ of Certiorari to the
Court of Appeals of Texas, Eighth District, El Paso**

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A Mexican physician, arrested in Texas on a charge of failure to appear for a traffic charge, died in jail three days later not having received his seizure medication. Defendant County, pursuant to statutory authority, had contracted with the jail medical director to "set specific protocols, policies and procedures concerning ... prescription medicines." The jury found that his deliberate indifference caused decedent's death, adjudicating the County liable under 42 USC § 1983. The Texas Court of Appeals, professing to employ the conventional, deferential standard of appellate review of the verdict, nevertheless reviewed the record *de novo* and reversed, concluding that the jail doctor had not acted with deliberate indifference and only the sheriff, not the doctor, could be a policy maker. It entered a take-nothing judgment n.o.v. against the deceased doctor's family.

(1) Did the Texas Court of Appeals flout the purpose of 42 USC §1983 and nullify its effect by ignoring this Court's well established principle that there can be more than one "policy maker" and that "policy making" can be delegated, thereby providing a formula for municipalities to escape liability for unconstitutional acts?

(2) Is there anything in federal law that permits the Texas Court of Appeals to burden the civil rights protected by 42 US §1983 by reversing, after *de novo* (rather than deferential) review of the jury verdict that decedent had died as a result of "deliberate indifference" when the court below does not employ *de novo* review in comparable cases, and by any standard its conclusion is egregiously wrong.

Supreme Court, U.S.
FILED

No. 06-371 SEP 13 2006

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

COUNCIL OF INDEPENDENT TOBACCO
MANUFACTURERS OF AMERICA,

Petitioner,

v.

THE STATE OF MINNESOTA AND DAN SALOMONE,
in his Official Capacity as the COMMISSIONER OF
THE MINNESOTA DEPARTMENT OF REVENUE,

Respondents.

**On Petition For Writ Of Certiorari
To The Minnesota Supreme Court**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether a state tax imposed on only those products made by parties who refuse to surrender their First Amendment rights while exempting identical products made by parties who surrender such rights violates the First Amendment.

Supreme Court, U.S.
FILED

06 - 372 SEP 11 2006

No. 06-
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

FERRING B.V., PETITIONER,
-AND-
AVENTIS PHARMACEUTICALS, INC., PETITIONER,
v.
BARR LABORATORIES, INC., RESPONDENT.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Pursuant to this Court's holding in *Precision Instrument Manufacturing Co. v. Automotive Maintenance Machinery Co.*, 324 U.S. 806, 816 (1945), a federal court may invoke its inherent equitable powers to render unenforceable an otherwise valid patent where the patentee has engaged in "inequitable conduct" during prosecution of the patent application before the United States Patent & Trademark Office ("PTO"). This Court characterized such "inequitable conduct" as a form of unclean hands. Lower courts have formulated a test for evaluating whether a patentee engaged in "inequitable conduct" during patent prosecution, allowing this doctrine to be invoked generally whenever (1) the patentee misrepresented or did not provide the PTO with "material" information and (2) the patentee did so with an "intent" to deceive. The questions presented in this case are:

1. Whether the United States Court of Appeals for the Federal Circuit has improperly expanded the scope of the inequitable conduct doctrine by lowering the threshold of what constitutes "material" information that a patentee must disclose to the PTO so as to include information that has no bearing on patentability.
2. Whether the United States Court of Appeals for the Federal Circuit has improperly expanded the scope of the inequitable conduct doctrine by lowering the threshold for establishing intent to deceive the PTO so as to include a judicial determination that the applicant "knew or should have known" the information not provided to the PTO was "highly material."

Supreme Court, U.S.
FILED

No. 06-373 SEP 12 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

JEROME POWELL,

Petitioner,

v.

JOSEPH LEHMAN,

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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QUESTIONS PRESENTED

1. Where Powell has been convicted of first-degree murder, files a notice of appeal and obtains permission to order the entire trial transcript at public expense, is he deprived of his right to appeal when his appointed appellate counsel orders and reviews only 54 pages (the pretrial hearings) of the trial transcript?
2. Was trial counsel ineffective when she failed to protect Powell from appearing before the jury in shackles and where she failed to properly investigate Powell's alibi defense?

Supreme Court, U.S.
FILED

No. _____ 06-375 SEP 11 2006

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

FEDERAL KEMPER LIFE ASSURANCE COMPANY
Petitioner,

v.

KAKKADASAN SAMPATHACHAR, M.D.,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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375

QUESTION PRESENTED

Whether a special verdict under Rule 49(a) of the Federal Rules of Civil Procedure must contain jury findings on all issues of material fact raised by the pleadings and the evidence when a party demands the submission of those issues to the jury.

Supreme Court, U.S.
FILED

06-376 JUL 28 2006

No. OFFICE OF THE CLERK

In the
Supreme Court of the United States

JOHN F. HINCK and PAMELA F. HINCK,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Before 1996, the circuits held that district courts and the Court of Federal Claims had 28 U.S.C. §§1346(a)(1) and 1491(a)(1) refund jurisdiction over claims to abate interest under 26 U.S.C. §6404(e)(1), but were barred from exercising that jurisdiction because abatement was discretionary and there was no articulated standard for reviewing denials of those requests. The Tax Court held it had no prepayment jurisdiction over §6404(e)(1) at all and followed the circuit courts' discretionary analysis in the exceptional cases where it had overpayment jurisdiction.

In 1996, Congress amended §6404, giving the Tax Court prepayment jurisdiction to review IRS denials of some taxpayer §6404(e)(1) abatement requests using an abuse of discretion standard.

The IRS now asserts the Tax Court has exclusive jurisdiction over both §6404(e)(1) prepayment and refund cases. In *Beall v. U.S.*, 336 F.3d 419 (5th Cir. 2003), the Fifth Circuit held that the 1996 amendments resolved the lack of a justiciable standard issue that precluded exercise of district court refund jurisdiction and resulted in exclusive but limited Tax Court prepayment jurisdiction and limited concurrent refund jurisdiction. The Federal Circuit acknowledged it created a conflict with the Fifth Circuit. The Federal Circuit's exclusivity holding precludes any judicial review of many claims.

The question presented here is:

Did the grant of selective, limited jurisdiction in the 1996 amendments give the Tax Court exclusive jurisdiction over all §6404(e)(1) claims, deny all relief for many taxpayers, and repeal by implication the existing 28 U.S.C. §§1346(a)(1) and 1491(a)(1) refund jurisdiction of the district courts and the Court of Federal Claims?

Supreme Court, U.S.
FILED

No. 06-_____ 06-377 SEP 14 2006

OFFICE OF THE CLERK

In The
Supreme Court of the United States

—◆—
THE METSCH LAW FIRM, P.A.,
f/k/a Metsch & Metsch, P.A.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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377

QUESTION PRESENTED

Did a criminal forfeiture under 21 U.S.C. § 853(n) operate to negate a pre-existing attorney's retaining lien, which had been imposed pursuant to Florida law during the pendency of the United States of America's civil action under 18 U.S.C. § 1345, against the proceeds of the sale of the clients' real property?

Supreme Court, U.S.
FILED

No. _____
06-378 SEP 14 2006

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

—◆—
WILLIAM THURSTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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QUESTIONS PRESENTED

The questions presented are:

1. Whether facts that increase a defendant's sentence must be proved beyond a reasonable doubt.
2. Whether it is permissible under the Sixth Amendment for a court of appeals reviewing a sentence for unreasonableness to give greater weight to the Guidelines sentencing range than to the other 18 U.S.C. § 3553(a) factors and to give less deference to district courts that impose sentences outside that range.
3. Whether a district court has discretion under 18 U.S.C. § 3553(a) to avoid disparity between the sentence of a defendant who exercises his constitutional right to trial and that of a codefendant who pleaded *nolo contendere* but is otherwise similar.

Supreme Court, U.S.
FILED

No. _____

06-381 SEP 14 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

—————◆—————
NATHAN ANDREW KNIATT,

Petitioner,

vs.

THE STATE OF TEXAS,

Respondent.

—————◆—————
**On Petition For A Writ Of Certiorari
To The Court Of Criminal Appeals Of Texas**

—————◆—————
PETITION FOR A WRIT OF CERTIORARI

—————◆—————
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September, 2006

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QUESTIONS PRESENTED

Does a Trial Court's ruling that a criminal defendant's plea of guilty was "voluntary" under the Fourteenth Amendment present a "Constitutional Fact" that is subject to independent review on appeal, or is it a "Mixed Question of Law and Fact" entitled to "almost total deference" on appeal when the Trial Court's determination includes an assessment of the defendant's credibility?

Does the Fourteenth Amendment, "as a means of compensating for the perceived shortcomings of the trier of fact by way of bias or some other factor," *Miller v. Fenton*, 474 U.S. 104, 114 (1985), require independent or *de novo* appellate review of a Trial Court's finding that a plea of guilty was "voluntarily" entered, when the Trial Court has been found on appeal to have deliberately "punished" the defendant prior to the plea, within the meaning of the Fourteenth Amendment, for refusing to waive his constitutional right to trial by jury?

Does the "attenuation" doctrine present a question of law that must be independently addressed on appeal to determine whether a Trial Court's unconstitutional treatment of a defendant has tainted the defendant's subsequent plea of guilty?

Supreme Court, U.S.
FILED

No. _____ 06-383 SEP 15 2006

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

— ♦ —
JAMES GILBERT BERRY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

— ♦ —
ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

— ♦ —
PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX
— ♦ —

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QUESTION PRESENTED FOR REVIEW

The following question is presented by the
Petition for Writ of Certiorari:

Whether Berry was constitutionally
disadvantaged by the arbitrary placement of his
Petition for Writ of Certiorari on the docket of the
United States Supreme Court?

Supreme Court, U.S.
FILED

No. 06-_____ 06-384 SEP 14 2006

OFFICE OF THE CLERK

In The
Supreme Court of the United States

—————◆—————
JAVIER OTONIEL BUSTAMANTE-BARRERA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney General,

Respondent.

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

—————◆—————
PETITION FOR A WRIT OF CERTIORARI

—————◆—————
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QUESTION PRESENTED

Under derivative citizenship, noncitizen children automatically become citizens when their parents become naturalized citizens. For children who turned eighteen before 2001, 8 U.S.C. 1432(a) provides that if a child's parents were legally separated, the child became a citizen when the parent having legal custody of the child became a naturalized citizen.

This case presents the following question:

Is the determination of whether a legally-separated parent has legal custody of a child under 8 U.S.C. 1432(a) governed by the relevant state's domestic-relations law or federal common law?

The Courts of Appeals are divided on this question.

Supreme Court, U.S.
FILED

No. 06-385 SEP 14 2008

OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

MALACHY McALLISTER,
NICOLA McALLISTER and SEAN R. McALLISTER,

Petitioners,

—v.—

ATTORNEY GENERAL OF THE UNITED STATES,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Do derivative asylum claims survive the principal to present the type of live case or controversy which the Court discussed in *Spencer v. Kemna*, 523 US 1?

Should the provision in the Immigration and Nationality Act at 8 U.S.C. §1182(a)(3)(B)(iii)(V)(b) which bars from asylum those aliens who have “engaged in terrorist activities,” be struck out as unconstitutionally vague or overbroad? In the alternative, should a less literal reading of the statute be employed, drawing on language outside the statute and conforming to principles of international law?

Supreme Court, U.S.
FILED

No. 06-387 SEP 15 2006

OFFICE OF THE CLERK
In The
Supreme Court Of The United States

NATHANIEL PORTER, JR.; HEATHER L.
WILLIAMS; PAMELA C. FRYE; DEMETRICE L.
PENNIE; ALAN KEITH WALKER; MARK S.
HUDSON; STEVIE HARRIS; THOMAS K. VEITHCH;
MARCIA ROSE WALL; BETH ELLEN JACKSON;
CHRISTOPHER S. HEFTLER; NATHAN FISHER,
Petitioners,

V.

WALTER S. RAY, JR.; BOBBY K. WHITWORTH;
JIM WETHERINGTON; GARFIELD HAMMONS, JR.;
BETTY ANN COOK; EUGENE P. WALKER;
MILTON E. NIX, JR.; J. MICHAEL LIGHT,
Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Does Ex Post Facto prohibit members of the Georgia parole agency from retroactively enforcing an unpublished ninety percent to serve policy foreclosing Petitioners and similarly situated inmates of any meaningful consideration for release on parole before serving de facto ninety percent of their sentences and retroactively substantially increasing their sentences to serve beyond their likely release on parole in accordance with the enacted parole laws in effect at the time of commission of their offenses after serving one-third of their judicial sentences and the months to serve calculated under statutorily mandated Parole Decision Guidelines?
2. Does the retroactive application of an unpublished ninety percent to serve policy by the Georgia parole agency that substantially extends sentences to serve beyond the enacted parole laws and parole decision guidelines without fair legal warning also violate Due Process?
3. Are extended sentences to serve a continuing constitutional violation beyond the likely release on parole under the enacted parole laws and the legislatively mandated Parole Decision Guidelines?
- 4.. Are Due Process and the Federal Rules of Civil Procedure violated when the Petitioners are denied discovery necessary to prove their case that is secreted exclusively in the files of the Georgia parole agency?

Supreme Court, U.S.
FILED

No. 06-388 SEP 19 2006

OFFICE OF THE CLERK

In The

Supreme Court of the United States

ROBERT S. WILLIS

Petitioner

v.

STATE OF LOUISIANA

Respondent

On Petition for Writ of Certiorari
to the Supreme Court of Louisiana

Petition for Writ of Certiorari

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QUESTIONS PRESENTED FOR REVIEW

1. Whether application of La. Code Evid. art. 412.2, enacted after petitioner was indicted and which authorized the admission of evidence not previously admissible and which lowered the quantum of evidence necessary to convict, violated the *ex post facto* clause of the United States Constitution.

2. Whether the prosecutor's conduct, including suggesting that petitioner was guilty merely because he was being prosecuted or had been indicted, rendered petitioner's trial so unfair as to constitute a denial of due process.

Supreme Court, U.S.
FILED

No. _____

06-389 SEP 14 2006

OFFICE OF THE CLERK

In the
Supreme Court of the United States

RIVERBOAT SERVICES OF INDIANA, INCORPORATED;
RIVERBOAT SERVICES, INCORPORATED, ET AL.,
Petitioners,

v.

MICHAEL P. GAFFNEY, ET AL.,
Respondents.

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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QUESTIONS PRESENTED

1. Whether the Seventh Circuit's decision finding that seamen employed on a riverboat casino who appealed a regulatory variance granted by the Coast Guard engaged in conduct protected by the seaman's whistle-blower statute 46 U.S.C. § 2114?
2. Whether the Seventh Circuit's decision finding that two seamen who did not participate in the appeal to the Coast Guard were entitled to whistle-blower protection pursuant to 46 U.S.C. § 2114?
3. Whether the Seventh Circuit erred in ignoring its plain precedent of *Stone v. City of Indianapolis* and *Rogers v. City of Chicago* in ruling on causation for retaliatory discharge where similarly situated employees who did not appeal the Coast Guard's variance were also terminated, and not all the employees who appealed the variance were terminated?
4. Whether the Seventh Circuit erred in employing an abuse of discretion standard when it upheld punitive damage awards of \$25,000 to each of the Plaintiffs regardless of the underlying damage award when the Defendants had challenged the excessiveness of the awards?