

(ORDER LIST: 583 U.S.)

MONDAY, FEBRUARY 26, 2018

CERTIORARI -- SUMMARY DISPOSITION

17-908 KELSEY-HAYES CO., ET AL. V. INTERNATIONAL UNION, 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 *CNH Industrial N.V. v. Reese*, 583 U. S. ____ (2018).

ORDERS IN PENDING CASES

17M85 SKRBIC, LJUBO V. SOMMERS, CATHERINE

17M86 KORZYBSKI, SOREN D. V. UNITED STATES

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

CERTIORARI GRANTED

17-340 NEW PRIME INC. V. OLIVEIRA, DOMINIC

17-587 MOUNT LEMMON FIRE DISTRICT V. GUIDO, JOHN, ET AL.

The petitions for writs of certiorari are granted.

17-7505 MADISON, VERNON V. ALABAMA

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted.

CERTIORARI DENIED

17-418) NEW YORK, ET AL. V. EPA, ET AL.

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17-446) RIVERKEEPER, INC., ET AL. V. EPA, ET AL.

17-608 ESTATE OF HELEN B. BROOKS, ET AL. V. CT COMM'R OF REVENUE SERVICE

17-802 R.J. REYNOLDS TOBACCO CO. V. IZZARELLI, BARBARA A.

17-878 McLAUGHLIN, KIMBERLY V. McLAUGHLIN, SUZAN
17-895 BUSTILLO-FORMOSO, PEDRO V. MILLION AIR SAN JUAN, ET AL.
17-902 RIVERA PEREZ, RENE I. V. SESSIONS, ATT'Y GEN.
17-906 MENDEL, JAKE, ET AL. V. MORGAN KEEGAN & CO., INC.
17-910 CARROLL, ROGER, ET AL. V. DODARO, COMPTROLLER GEN., ET AL.
17-917 LAWRENCE, CHRISTOPHER, ET UX. V. BANK OF AMERICA, N.A., ET AL.
17-922 SIENA AT OLD ORCHARD, ET AL. V. SIENA AT OLD ORCHARD CONDOMINIUM
17-930 LA DOC, ET AL. V. WARE, CHRISTOPHER J.
17-932 NEWARK ELECTRIC CORP., ET AL. V. NLRB
17-939 MIDWEST TERMINALS V. NLRB
17-944 RAINER, SHAWN T. V. KELLEY, DIR., AR DOC
17-946 DAVID NETZER CONSULTING ENGINEER V. SHELL OIL CO., ET AL.
17-948 MANAGED CARE INS. CONSULTANTS V. UNITED HEALTHCARE INS., ET AL.
17-987 CARNICELLA, BETH V. MERCY HOSPITAL
17-1032 ROSS, BETSY, ET AL. V. KLESIOUS, MARY, ET AL.
17-1039 APPLEBY, BENJAMIN V. SCHNURR, WARDEN, ET AL.
17-1064 GATZA, KATHY J., ET AL. V. DCC LITIGATION FACILITY, INC.
17-1092 AFMS LLC V. UNITED PARCEL SERVICE, ET AL.
17-5686 BERNARD, KINGSLEY V. JARVIS, WARDEN
17-6855 GRIFFITH, ANDREW N. V. UNITED STATES
17-7144 WINDHAM, RACHEL A. V. HARMON LAW OFFICES, ET AL.
17-7145 WADDY, WARREN V. OHIO
17-7152 WILLIS, HARRISON V. DENTISTS BENEFITS INS., ET AL.
17-7201 DORTCH, LUVELL V. ILLINOIS
17-7204 ESQUIVEL, FERMIN G. V. JOEL MARTINEZ, WARDEN
17-7205 LEVY, HOWARD P. V. SESSIONS, ATT'Y GEN.
17-7218 JEAN-BAPTISTE, HENRI V. SAP, NATIONAL SECURITY SERVICES
17-7221 CHANG, CHAE V. FRAUENHEIM, WARDEN

17-7236 MAHJOR, HAMID V. GREENPOINT MORTGAGE FUNDING
17-7237 ARVELO, EDWIN V. JONES, SEC., FL DOC, ET AL.
17-7243 PICCONE, LOUIS A. V. MATAL, JOSEPH, ET AL.
17-7244 BELYEW, LISA V. SUPERIOR COURT OF CA, ET AL.
17-7252 JEFFERSON, SHYMEL D. V. NORTH CAROLINA
17-7265 PAYNE, SCOTT G. V. HORTON, WARDEN
17-7284 WILLIAMS, ROBERT V. VICTORIA'S SECRET
17-7363 GRAY, GRAYLIN V. NE DOC, ET AL.
17-7386 SMITH, TERRY D. V. BOWSER, SUPT., TWO RIVERS
17-7396 PRINGLE, JEROME V. RYAN, DIR., AZ DOC, ET AL.
17-7437 WILKERSON, VINCENT V. LANE, SUPT., FAYETTE, ET AL.
17-7442 LEE, GLEN D. V. ALABAMA
17-7447 JONES, CHRISTOPHER D. V. FOSTER, WARDEN
17-7450 DARBY, BARBARA V. SHULKIN, SEC. OF VA
17-7457 COLEMAN, CRAIG V. V. ARIZONA
17-7478 McNEAL, ARQUIVES D. V. UNITED STATES
17-7480 ROCHA, JORGE V. UNITED STATES
17-7498 PHILLIPS, JAMES V. ILLINOIS
17-7506 WHITAKER, THOMAS, ET AL. V. COLLIER, BRYAN, ET AL.
17-7512 WILKINSON, WILLIAM R. V. UNITED STATES
17-7513 WALKER, JAMES V. TIMOTHY V. UNITED STATES
17-7514 TORRES, MIGUEL A. V. UNITED STATES
17-7516 BRUNDIDGE, ARSENIO V. UNITED STATES
17-7518 JONES, MARVEL V. NEBRASKA
17-7520 JONES, TIMOTHY V. UNITED STATES
17-7525 LEBRON, VICTOR V. UNITED STATES
17-7526 SNELSON, GEORGE V. UNITED STATES
17-7530 ABRAMYAN, VARDAN V. BAUGHMAN, WARDEN

17-7534 STEPHENS, KEITH V. UNITED STATES
17-7535 MADISON, VERNON V. ALABAMA
17-7537 SPEED, IVAN V. UNITED STATES
17-7538 ORTEGA-ORTIZ, LUIS V. UNITED STATES
17-7539 JUDGE, SIMON J. V. UNITED STATES
17-7540 KISACK, KEITH C. V. LOUISIANA
17-7543 HALL, DAMON V. UNITED STATES
17-7549 HEAD, CHARLES, ET AL. V. UNITED STATES
17-7553 MOORE, PHILLIP W. V. JONES, SEC., FL DOC, ET AL.
17-7554 MORRISON, JENNIFER M. V. UNITED STATES
17-7557 COKER, JAMES D. V. UNITED STATES
17-7558 LESSNER, CHRISTOPHER V. UNITED STATES
17-7562 FRAZIER, DAVID T. V. UNITED STATES
17-7564 LAUREANO-PEREZ, CHRISTOPHER L. V. UNITED STATES
17-7565 JACKSON, JERRY L. V. UNITED STATES
17-7566 WARD, ALFONSIYA J. V. UNITED STATES
17-7571 GRACO, BRIAN V. UNITED STATES
17-7572 BROWN, CARL R. V. UNITED STATES
17-7573 IGBOANUGO, VICTOR V. UNITED STATES
17-7574 ACOFF, JOSHUA J. V. UNITED STATES
17-7584 GILL, BRIAN V. UNITED STATES
17-7588 TORRES, JUAN M. V. UNITED STATES
17-7591 KAMER, JOSEPH D. V. UNITED STATES
17-7594 WILLIAMS, JOAN M. V. UNITED STATES
17-7595 PORTER, ELGENE V. GENOVESE, KEVIN
17-7596 JAY, MICHAEL V. UNITED STATES
17-7599 LANG, BARBARA V. UNITED STATES
17-7602 CHAVEZ-CUEVAS, JOSE M. V. UNITED STATES

17-7604 THOMPSON, SHAWNTANNA L. V. UNITED STATES
17-7612 PERALTA-CASTRO, EDWIN J. V. UNITED STATES
17-7614 GIBSON, RAY V. UNITED STATES
17-7627 KITTERMAN, SHANE A. V. SULLIVAN, WARDEN
17-7637 IVERSON, MICHAEL G. V. UNITED STATES

The petitions for writs of certiorari are denied.

17-1003 DEPT. OF HOMELAND SEC., ET AL. V. REGENTS OF UNIV. OF CA, ET AL.

The petition for a writ of certiorari before judgment is denied without prejudice. It is assumed that the Court of Appeals will proceed expeditiously to decide this case.

17-7548 FORD, TONY L. V. UNITED STATES

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

17-7559 GRANTON, AARON V. UNITED STATES

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

17-7598 INGRAM, DARYL L. V. UNITED STATES

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

HABEAS CORPUS DENIED

17-7629 IN RE LERON E. EASLEY

17-7630 IN RE JOE D. CONTRERAS

The petitions for writs of habeas corpus are denied.

MANDAMUS DENIED

17-1028 IN RE MICHAEL H. WU, ET UX.

The petition for a writ of mandamus is denied.

17-7211 IN RE SHARON CLOUD

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

REHEARINGS DENIED

16-9739 GONZALEZ, JAIME V. DUCART, WARDEN

17-311 CHAN, PUI-KWONG, ET AL. V. YANG, BAIZHEN, ET AL.

17-599 SAIA, LOUIS V. FLYING J. INC., ET AL.

17-613 SHAO, LINDA V. WANG, TSAN-KUEN

17-5724 SMITH, DEARICK V. UNITED STATES

17-6068 ABDUR'RAHMAN, ABU A., ET AL. V. PARKER, COMM'R, TN DOC, ET AL.

17-6071 MERCER, GREGORY S. V. FAIRFAX COUNTY BOARD, ET AL.

17-6072 MERCER, GREGORY S. V. POWERS, TRICIA W.

17-6083 BUCHANAN, MARQUITA V. TALLAHATCHIE COUNTY CORRECTIONAL

17-6099 VENTA, GUSTAVO V. JARVIS, WARDEN

17-6221 BALADEZ, SANDRO V. DAVIS, DIR., TX DCJ

17-6307 TERRELL, PIETRO E. V. HOFFNER, WARDEN

17-6327 SOTELO CANTU, JAVIER V. C. R. FISCHER & SONS, INC.

17-6385 SANDOVAL, DAVID R. V. DAVIS, DIR., TX DCJ

17-6414 COLLINS, OLUFEMI S., ET UX. V. JPMORGAN CHASE BANK, ET AL.

17-6462 SHAPIRO, ROBERT V. ACCU, ET AL.

17-6598 MILLER, TERESA V. WV DOC, ET AL.

17-6613 IN RE TARYN CHRISTIAN

17-6693 KUN, ALBERT M. V. STATE BAR OF CA

17-6792 SHEPPARD, WILFRED W. V. TEXAS

The petitions for rehearing are denied.

BREYER, J., dissenting

SUPREME COURT OF THE UNITED STATES

DALE GLENN MIDDLETON

17–6580

v.

FLORIDA

RANDY W. TUNDIDOR

17–6735

v.

FLORIDA

ON PETITIONS FOR WRITS OF CERTIORARI TO THE SUPREME
COURT OF FLORIDA

Nos. 17–6580 and 17–6735. Decided February 26, 2018

The petitions for writs of certiorari are denied.

JUSTICE BREYER, dissenting from the denial of certiorari.

For the reasons set forth in my concurring opinions in *Hurst v. Florida*, 577 U. S. ____, ____ (2016) (opinion concurring in judgment), and *Ring v. Arizona*, 536 U. S. 584, 613 (2002) (same), I would vacate and remand these cases for the Florida Supreme Court to address the Eighth Amendment issue in the first instance. I therefore agree with the dissenting opinion of JUSTICE SOTOMAYOR. In my view, “the Eighth Amendment requires individual jurors to make, and to take responsibility for, a decision to sentence a person to death.” *Id.*, at 619. I respectfully dissent.

SOTOMAYOR, J., dissenting

SUPREME COURT OF THE UNITED STATES

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ON PETITIONS FOR WRITS OF CERTIORARI TO THE SUPREME
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Nos. 17–6580 and 17–6735. Decided February 26, 2018

JUSTICE SOTOMAYOR, with whom JUSTICE GINSBURG joins, dissenting from the denial of certiorari.

Yet again, the Florida Supreme Court has failed to address an important Eighth Amendment claim raised by capital defendants regarding the propriety of jury instructions that repeatedly emphasized that the jurors’ role in sentencing the defendants to death was merely advisory. I dissented once before from the denial of certiorari in *Truehill v. Florida*, *ante*, p. ____, based on the same failure. Because two more capital cases have now come and gone without any change, from either the court below or this Court, I feel compelled to elaborate further.

Like the two petitioners in *Truehill*, Dale Middleton and Randy Tundidor were sentenced to death under a Florida capital sentencing scheme that this Court has since declared unconstitutional. See *Hurst v. Florida*, 577 U. S. ____ (2016). Relying on the unanimity of the juries’ recommendations of death, the Florida Supreme Court post-*Hurst* declined to disturb the petitioners’ death sentences, reasoning that the unanimity ensured that jurors had made the necessary findings of fact under *Hurst*. By doing so, the Florida Supreme Court effectively transformed the

SOTOMAYOR, J., dissenting

pre-*Hurst* jury recommendations into binding findings of fact with respect to the petitioners' death sentences.

Having so concluded, the Florida Supreme Court continually refuses to grapple with the Eighth Amendment implications of that holding. If those then-advisory jury findings are now binding and sufficient to satisfy *Hurst*, petitioners contend that their sentences violate the Eighth Amendment because the jury instructions in their cases repeatedly emphasized the nonbinding, advisory nature of the jurors' role and that the judge was the final decisionmaker. This Court has unequivocally held "that it is constitutionally impermissible to rest a death sentence on a determination made by a sentencer who has been led to believe that the responsibility for determining the appropriateness of the defendant's death rests elsewhere." *Caldwell v. Mississippi*, 472 U. S. 320, 328–329 (1985).

At least four times now, capital defendants in Florida have come to this Court, their last resort before their death sentences become final, seeking our intervention on this issue. Each time, this Court has refused to act, letting stand the petitioners' death sentences despite the substantiality of their unaddressed Eighth Amendment challenges. Because I continue to believe that "the stakes in capital cases are too high to ignore such constitutional challenges," *Truehill, ante*, at 2, I again dissent from this inaction and would vacate and remand these cases to the Florida Supreme Court.