

(ORDER LIST: 601 U.S.)

MONDAY, MARCH 4, 2024

ORDERS IN PENDING CASES

23A701 AKERMAN, MARTIN V. MERIT SYSTEMS PROTECTION BOARD

The application for stay addressed to Justice Gorsuch and referred to the Court is denied.

23M64 DUBEREK, ALEXANDER Y. V. UNITED STATES

The motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record is granted.

22-842 NATIONAL RIFLE ASSN. OF AM. V. VULLO, MARIA T.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

23-5930 COLE, BRENT D. V. KEYES, WARDEN

23-6059 FERRELL, MICHELLE A. V. HUD

The motions of petitioners for reconsideration of orders denying leave to proceed *in forma pauperis* are denied.

23-6701 VICENTE FONSECA, LUIS R. V. UNITED STATES

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until March 25, 2024, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

23-436) PAULSON, VIKKI E., ET AL. V. UNITED STATES
)
23-571) PICKENS, MADELEINE V. UNITED STATES

23-550) BOWES, LAURA B. V. LIBERTY UNIVERSITY, INC.
)
23-703) LIBERTY UNIVERSITY, INC. V. BOWES, LAURA B.

23-565 HASBRO, INC., ET AL. V. MARKHAM CONCEPTS, INC., ET AL.

23-587 JAKOB, MARK, ET AL. V. CHEEKS, CLARA

23-644 CHARLOTTE, NC, ET AL. V. ALEMAN, AZUCENA Z.

23-695 TACZAK, SAMANTHA, ET AL. V. CREMEANS, NICOLETTE, ET AL.

23-699 EMPOSIMATO, ANTHONY V. NORTH, STEPHEN N.

23-712 IRELAND, STEPHEN V. BEND NEUROLOGICAL ASSOC., ET AL.

23-714 FRANKLIN, BOBBY L. V. BWD PROPERTIES 2, LLC, ET AL.

23-763 JDH PACIFIC, INC. V. PRECISION-HAYES INT'L, INC.

23-778 ABREU VELANDIA, FRANCISCO A. V. GARLAND, ATT'Y GEN.

23-781 MOSER, SAMMIE T. V. HALIFAX COUNTY BOARD, ET AL.

23-794 PACILIO, JOHN, ET AL. V. UNITED STATES

23-805 GEORGE, CHRISTOPHER P. V. UNITED STATES

23-826 HARRIS, ANTONY J. V. UNITED STATES

23-5903 CATES, NATHAN R. V. UNITED STATES

23-5918 WILLIAMS, THEODORE L. V. UNITED STATES

23-5970 WILSON, JERRY S. V. GIERACH, WARDEN

23-6133 REAVES, JACQUELYN V. MONMOUTH UNIVERSITY, ET AL.

23-6139 GOBERT, MILTON D. V. LUMPKIN, DIR., TX DCJ

23-6150 MALOID, QUINDELL T. V. UNITED STATES

23-6383 ARBELAEZ, GUILLERMO O. V. FLORIDA, ET AL.

23-6417 HALL, RALPH V. NEW YORK

23-6426 NYAMUSEVYA, LEONARD V. CITIMORTGAGE, INC., ET AL.

23-6428 PIERZNIK, JUSTIN V. O'MALLEY, COMM'R, SOCIAL SEC.

23-6431 MADRID, MARIANO V. FORD, ATT'Y GEN. OF NV, ET AL.
23-6434 GEDEON, PASCAL V. USDC ED PA
23-6438 MERILIEEN, JEAN J. V. McFARLANE, WARDEN, ET AL.
23-6446 GAUL, WILLIAM R. V. TENNESSEE
23-6468 RAHMAN, OMAR A. V. PENNSYLVANIA
23-6487 BOZIC, SIMEON V. PENNSYLVANIA
23-6511 SOSNOWSKI, THOMAS A. V. DIXON, SEC., FL DOC
23-6532 BROWN, ZERAK V. UNITED STATES
23-6547 SEABOLT, BILLY J. V. UNITED STATES
23-6550 HOWELL, XAVIER V. UNITED STATES
23-6551 McGAULEY, STEVEN V. ILLINOIS
23-6555 ACEVES-RAMIREZ, LUIS V. UNITED STATES
23-6557 STEVENSON, FRANK R. V. LILLEY, SUPT., EASTERN
23-6560 WOLAK, COLE A. V. UNITED STATES
23-6572 SELLS, MARK E. V. UNITED STATES
23-6576 WILLIAMS, CAITLYN, ET AL. V. MISSOURI
23-6577 DADYAN, VAHE, ET AL. V. UNITED STATES
23-6580 RAMON, CHARLES V. UNITED STATES
23-6584 HILL, DAVID E. V. UNITED STATES
23-6585 FAGOT-MAXIMO, ARNULFO V. UNITED STATES
23-6587 BRAVO, PEDRO A. V. DIXON, SEC., FL DOC
23-6588 ESPINOZA, AARON R. V. UNITED STATES
23-6589 McCOY, REGINALD L. V. UNITED STATES
23-6592 CARVAJAL, BERNARDITO V. UNITED STATES
23-6594 RAMIREZ-GOMEZ, NOEMY V. UNITED STATES
23-6599 BLEVINS, DEVON V. UNITED STATES
23-6600 DANIEL, RICHARD V. UNITED STATES
23-6601 FISHBURNE, QUENTIN J. V. UNITED STATES

23-6608 MOONEY, MARY M. V. UNITED STATES
23-6609 McCALL, KEVIN V. UNITED STATES
23-6612 CAPLE, CORNELIUS R. V. UNITED STATES
23-6615 VEAL, JASON J. V. UNITED STATES
23-6616 YANG, FAN V. UNITED STATES
23-6619 SMITH, EDWARD L. V. UNITED STATES
23-6623 JACKSON, JOHN L. V. UNITED STATES
23-6626 GIBSON, MICHAEL S. V. KING, ACTING SUPT., CLINTON
23-6629 BICKNELL, GILBERT D. V. UNITED STATES
23-6634 COLON-MIRANDA, ANDRES V. UNITED STATES
23-6635 FULWILER, LESLIE V. UNITED STATES
23-6638 HOWARD, TRENT D. V. UNITED STATES
23-6639 FOLK, OMAR S. V. UNITED STATES
23-6652 MEEKER, DON V. UNITED STATES
23-6656 BODDIE, ROBERT K. V. UNITED STATES
23-6663 GIL, EMMANUEL V. UNITED STATES
23-6672 WILLIAMS, CHRISTOPHER R. V. UNITED STATES
23-6673 AKWUBA, LILLIAN V. UNITED STATES
23-6674 HAMBRICK, TERRY E. V. UNITED STATES
23-6677 SANCHEZ, MICHAEL I. V. THORNELL, DIR., AZ DOC, ET AL.
23-6680 MAYO, MARK V. UNITED STATES
23-6681 LOWE, DANNY V. UNITED STATES
23-6686 DAVIS, CLARENCE L. V. UNITED STATES
23-6687 FRANCIS, DARIUS J. V. UNITED STATES
23-6688 ESTRELLA, CHRISTIAN A. V. UNITED STATES
23-6689 MENA, GUY V. UNITED STATES
23-6690 COMBS, LAMARK A. V. UNITED STATES
23-6697 HERNANDEZ, JORGE V. UNITED STATES

23-6707 WATHEN, SEAN R. V. UNITED STATES
23-6712 NATARENO-CALDERON, ABNER R. V. UNITED STATES
23-6714 CORTEZ-RODRIGUEZ, RAMON U. V. UNITED STATES
23-6715 WILBORNE, RE'SHAUN L. V. UNITED STATES
23-6716 WALKER, TOMMY L. V. UNITED STATES

The petitions for writs of certiorari are denied.

23-6409 CARAFFA, ALFRED E. V. AZ DOC, 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. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

23-6644 DURHAM, MATTHEW 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.

MANDAMUS DENIED

23-816 IN RE SHIVA AKULA
23-6414 IN RE JOSEPH RAIMONDO
23-6437 IN RE TONY WEEMS

The petitions for writs of mandamus are denied.

23-745 IN RE HENRY L. KLEIN

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

REHEARINGS DENIED

23-5624 PORTER, CHARLES M. V. USDC MD FL
23-5792 CHANDLER, KEVIN V. NEAL, WARDEN
23-5905 LAK, DANIEL K. V. CALIFORNIA
23-5992 IN RE JOHN BAILEY
23-6015 ASKIA, KWAME A. V. UNITED STATES

The petitions for rehearing are denied.

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

SPEECH FIRST, INC. *v.* TIMOTHY SANDS,
INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY
AS PRESIDENT OF VIRGINIA POLY-
TECHNIC INSTITUTE AND
STATE UNIVERSITY

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

No. 23–156. Decided March 4, 2024

The petition for a writ of certiorari is granted. The judgment with respect to the Bias Policy claims is vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit with instructions to dismiss those claims as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950). JUSTICE JACKSON, dissenting: I would deny the petition. In my view, the party seeking vacatur has not established equitable entitlement to that remedy. See *Acheson Hotels, LLC v. Laufer*, 601 U. S. ____ (2023) (JACKSON, J., concurring in the judgment).

JUSTICE THOMAS, with whom JUSTICE ALITO joins, dissenting.

Speech First, a national membership organization seeking to protect free speech on college campuses, brought suit against Virginia Tech to enjoin the university’s “bias intervention and response team policy.” Under that policy, Virginia Tech encourages students to report one another for expressions of “bias”—defined as any “expressio[n] against a person or group because of” an enumerated list of characteristics. App. in No. 21–2061 (CA4), p. 140. Students are instructed to “[r]eview” their “language, images, and other forms of communication to make sure all groups are fairly represented.” *Id.*, at 144. A “bias intervention and re-

THOMAS, J., dissenting

sponse team” made up of university officials then investigates reports, with the option to refer students for discipline or to the police. Speech First argues that this policy amounts to “a literal speech police.” Pet. for Cert. i. It contends that the policy violates the First Amendment by chilling its student-members’ speech, causing students to stay silent on controversial or unpopular issues for fear of being reported to the university. The Court of Appeals for the Fourth Circuit held that Speech First lacked standing to bring this claim because the university’s policy does not objectively chill students’ speech. 69 F. 4th 184, 197 (2023).¹ It acknowledged that this conclusion diverged from that of three other Courts of Appeals. *Id.*, at 197–198.

Speech First asks us to review whether Virginia Tech’s bias response policy objectively chills students’ speech.² I would grant the petition. It raises an important question affecting universities nationwide; Speech First estimates that over 450 universities have similar bias-reporting schemes. Pet. for Cert. 7. Yet, because of the split among

¹To establish organizational standing under our precedent, Speech First must first show that one of its student-members has suffered an injury. See *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U. S. 181, 199 (2023). The Courts of Appeals have reasoned that Speech First’s students suffered an injury sufficient to confer standing if it could show the bias response policies chilled students’ speech.

²Shortly before Speech First petitioned for certiorari, Virginia Tech changed its policy. Other universities have attempted a similar maneuver, but two Courts of Appeals have found that these policy changes did not moot Speech First’s challenges. See *Speech First, Inc. v. Fenves*, 979 F. 3d 319, 328 (CA5 2020) (“This is not the first appeal in which a public university has had a sudden change of heart, during litigation, about the overbreadth and vagueness of its speech code, and then advocated mootness”); see also *Speech First, Inc. v. Schlissel*, 939 F. 3d 756, 769–770 (CA6 2019). Of course, a defendant’s voluntary cessation of its challenged conduct does not always moot a case. See *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U. S. 167, 189 (2000). I thus refer to Virginia Tech’s policy in the present tense.

THOMAS, J., dissenting

the Courts of Appeals, many of these universities face no constitutional scrutiny, simply based on geography. I have serious concerns that bias response policies, such as Virginia Tech’s, objectively chill students’ speech.

The First Amendment provides that “Congress shall make no law . . . abridging the freedom of speech.” “[S]tate colleges and universities,” including Virginia Tech, “are not enclaves immune from the sweep of the First Amendment.” *Papish v. Board of Curators of Univ. of Mo.*, 410 U. S. 667, 670 (1973) (*per curiam*) (internal quotation marks omitted). Although the First Amendment applies most straightforwardly to government regulations that directly restrict speech, this Court has recognized that “constitutional violations [can also] arise from the deterrent, or ‘chilling,’ effect of governmental regulations.” *Laird v. Tatum*, 408 U. S. 1, 11 (1972). After all, “the threat of invoking legal sanctions and other means of coercion, persuasion, and intimidation” may cause self-censorship in violation of the First Amendment just as acutely as a direct bar on speech. *Bantam Books, Inc. v. Sullivan*, 372 U. S. 58, 67 (1963).

In applying these principles, the Courts of Appeals have divided over whether bias response policies have a “chilling effect” on students’ speech. Compare *Speech First, Inc. v. Cartwright*, 32 F. 4th 1110, 1124 (CA11 2022); *Speech First, Inc. v. Fenves*, 979 F. 3d 319, 338 (CA5 2020); and *Speech First, Inc. v. Schlissel*, 939 F. 3d 756, 765 (CA6 2019); with 69 F. 4th, at 197; and *Speech First, Inc. v. Killeen*, 968 F. 3d 628, 644 (CA7 2020). In this case, the Fourth Circuit held that Virginia Tech’s bias response policy does not chill students’ speech because the bias response team lacks authority to discipline or otherwise punish students and the implementation of the policy is not so heavyhanded that it deters students’ speech. 69 F. 4th, at 196–197.

I am skeptical of the Fourth Circuit’s conclusion. The scope of Virginia Tech’s policy combined with how it is enforced suggests that the university is stifling students’

THOMAS, J., dissenting

speech, at least enough to provide Speech First standing to pursue its First Amendment claim. First, the university’s bias response policy appears limitless in scope. According to Virginia Tech, “bias incidents” are “expressions against a person or group” based on “age, color, disability, gender, gender identity, gender expression, genetic information, national origin, political affiliation, race, religion, sexual orientation, veteran status, or any other basis protected by law.” App. in No. 21–2061 (CA4), at 140. The university provided examples of bias incidents, such as “words or actions that contradict the spirit of the Principles of Community” and “jokes that are demeaning to a particular group of people.” *Ibid.* Unsurprisingly, such an expansive policy has prompted students to report any and all perceived slights. For example, one report was submitted when “a student in a University residence hall overheard several male students privately talking crap about the women who were playing in a snowball fight, calling them not ‘athletic.’” *Speech First, Inc. v. Sands*, 2021 WL 4315459, *10 (WD Va., Sept. 22, 2021) (some internal quotation marks and alteration omitted). Another person submitted a report after someone “observed the words Saudi Arabia on the white board of [a] room”—despite acknowledging that “[i]t was unclear what the motive or complete message of the text originally was.” Decl. of C. Norris in No. 7:21–cv–00203 (WD Va., Apr. 12, 2021), ECF Doc. 4–2, p. 123. Other universities with bias response policies have received similar reports. See, e.g., App. in No. 21–2061 (CA4), at 254 (explaining that Ohio State University received a report for “a chalk message stating ‘Build the Wall’”); *id.*, at 252 (highlighting that Texas Tech University received a report for a student group tweeting “‘All lives don’t matter . . . #BlackLivesMatter’”).

Second, the threshold for reporting is intentionally low. The policy permits anonymous reporting, meaning there is little to no social cost for accusing a classmate of bias. And,

THOMAS, J., dissenting

students are encouraged to report other students for anything that even hints of “bias.” Indeed, the university ran a campaign: “[I]f you hear or see something that feels like a bias incident, statement, or expression, we encourage you to make a report. In short, if you see something, say something!” *Id.*, at 200. The policy does not limit the ability to report to fellow students—anyone in the “university community” may report Virginia Tech students for bias incidents. *Id.*, at 141. Reports may also cover incidents that take place outside the university, including off campus or on social media. Thus, the policy follows Virginia Tech students wherever they go. From the moment a student enters the university until graduation, he is under the university’s surveillance.

Third, a report can have weighty consequences. After a report is filed, it goes to the bias response team. The team includes university officials from the Office of the Dean of Students, Office for Equity and Accessibility, Office for Inclusion and Diversity, Student Conduct, and the Virginia Tech Police Department. The university officials may call in the accused student—whom the policy pre-emptively labels as the “perpetrator”—for a meeting. The team may require “[i]nterventions of either an educational or restorative nature.” *Id.*, at 372. The team even possesses the authority to refer a student for formal discipline or to the police. And, of course, every report—regardless of whether the team determines bias exists—is recorded and kept on permanent file by the university. See *ibid.*; see also 69 F. 4th, at 212 (Wilkinson, J., dissenting). Thus, even if the “perpetrator” is not technically required to accept the team’s invitation to meet, it is hard to believe a college student could so easily ignore a university official’s request, especially when the report will be filed and “the referral power lurks in the background of the invitation.” *Schlissel*, 939 F. 3d, at 765.

Considering the scope and enforcement of the university’s

THOMAS, J., dissenting

policy, it is at least a close question whether “students [may] self-censor, fearing the consequences of a report to [the bias response team] and thinking that speech is no longer worth the trouble.” 69 F. 4th, at 204 (Wilkinson, J., dissenting). This seems particularly true regarding controversial issues where dissenting opinions might be deemed biased.

This petition presents a high-stakes issue for our Nation’s system of higher education. Until we resolve it, there will be a patchwork of First Amendment rights on college campuses: Students in part of the country may pursue challenges to their universities’ policies, while students in other parts have no recourse and are potentially pressured to avoid controversial speech to escape their universities’ scrutiny and condemnation. We should grant certiorari to resolve this issue.