

(ORDER LIST: 593 U.S.)

MONDAY, MAY 3, 2021

CERTIORARI -- SUMMARY DISPOSITIONS

19-250 OKLAHOMA V. JOHNSON, JESSE A.

The motion of respondent for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Court of Criminal Appeals of Oklahoma for further consideration in light of *Jones v. Mississippi*, 593 U. S. ____ (2021).

19-507 PUBLISHERS BUSINESS, ET AL. V. FTC

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 Ninth Circuit for further consideration in light of *AMG Capital Management, LLC v. FTC*, 593 U. S. ____ (2021).

19-720 UNITED STATES V. BRIONES, RILEY

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 Ninth Circuit for further consideration in light of *Jones v. Mississippi*, 593 U. S. ____ (2021).

19-1208 YANEZ-PENA, ERIKA J. V. GARLAND, ATT'Y GEN.

20-268 ARGUETA-AYALA, JORGE A. V. GARLAND, ATT'Y GEN.

20-517 FIGUEROA-DIAZ, ROBERT V. GARLAND, ATT'Y GEN.

20-709 FUENTES-ANGEL, EDUARDO V. GARLAND, ATT'Y GEN.

20-1021 NAVARRETE-LOPEZ, ROSA M. V. GARLAND, ATT'Y GEN.

20-1070 OLVERA, FABIAN R. V. GARLAND, ATT'Y GEN.

The petitions for writs of certiorari are granted. The judgments are vacated, and the cases are remanded to the United States Court of Appeals for the Fifth Circuit for further consideration in light of *Niz-Chavez v. Garland*, 593 U. S. ____ (2021).

19-1234 CHEAT, BUN C. V. GARLAND, ATT'Y GEN.

19-1300 CHEN, JIAN V. GARLAND, ATT'Y GEN.

19-1316 GARCIA-ROMO, GILBERTO V. GARLAND, ATT'Y GEN.

20-45 KHAYTEKOV, TAKHIR A. V. GARLAND, ATT'Y GEN.

20-179 HERNANDEZ-MALDONADO, JOSE A. V. GARLAND, ATT'Y GEN.

20-832 CASTRO, EDWIN D. V. GARLAND, ATT'Y GEN.

20-6152 LUQUIN-CORONEL, REYNA E. V. GARLAND, ATT'Y GEN.

The petitions for writs of certiorari are granted. The judgments are vacated, and the cases are remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *Niz-Chavez v. Garland*, 593 U. S. ____ (2021).

ORDERS IN PENDING CASES

20M73 QUINTANA, GABRIEL G. V. MULHERON, WARDEN, ET AL.

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

20M74 UNDER SEAL V. VIRGINIA BOARD OF MEDICINE

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

20M75 KUNKLE, CHERYL V. SHAPIRO, ATT'Y GEN. OF PA

The motion to direct the Clerk to file a petition for a writ

of certiorari out of time is denied.

20-891 AM. AXLE & MFG., INC. V. NEAPCO HOLDINGS LLC, ET AL.
20-905 INDEP. SCHOOL DIST. NO. 283 V. E.M.D.H. EX REL. L.H. AND S.D.

The Acting Solicitor General is invited to file briefs in these cases expressing the views of the United States.

CERTIORARI DENIED

17-1511 NEWTON, LARRY W. V. INDIANA
19-399 GARCIA, BARRY C. V. NORTH DAKOTA
20-356 GARLAND, ATT'Y GEN. V. BANUELOS-GALVIZ, JOSE A.
20-397 GARLAND, ATT'Y GEN. V. MARTINEZ, HECTOR E. P.
20-554 SMITH, CRAIG E. V. MCKINNEY, WARDEN, ET AL.
20-855 MD SHALL ISSUE, INC., ET AL. V. HOGAN, GOV. OF MD
20-861 FRY, ARLENE V. RAND CONSTRUCTION CORP.
20-866 ALLEN, FRANCESCA, ET AL. V. WELLS FARGO & CO., ET AL.
20-881 TRAN, HUONG L., ET AL. V. HOLMES BEACH, FL, ET AL.
20-923 GARLAND, ATT'Y GEN. V. ACOSTA-PENA, RODRIGO
20-989 NEWARK, NJ V. FRATERNAL ORDER OF POLICE
20-999 LLOYD INDUSTRIES, INC. V. WATSON, RONALD
20-1002 COX, CODY W. V. WILSON, DON
20-1012 GUENTHER, CHARLES V. LOCKHEED MARTIN CORP., ET AL.
20-1014) ORGANIC CANNABIS FOUNDATION, LLC V. CIR
20-1031) N. CA SMALL BUSINESS ASSISTANTS V. CIR
20-1152 LUNA, GUILLERMO, ET UX. V. U.S. BANK N.A.
20-1157 YANEY, MICHELLE S. V. SUPERIOR COURT OF CA, ET AL.
20-1168 MARCUS & MILLICHAP, ET AL. V. CHANDRA, SHARATH, ET AL.
20-1171 MADISON, MICHAEL V. OHIO
20-1176 THOMAS E. PROCTOR HEIRS TRUST V. KETA GAS & OIL CO., ET AL.
20-1185 EDWARDS, DOUGLAS V. SOLOMON AND SOLOMON P.C.

20-1186 DYNASTY GROUP, INC. V. SMITH, STEPHEN

20-1188 THOMASON, MARILYNN V. BENEFICIAL FINANCIAL I INC.

20-1192 FOUSE, FRED L. ET UX V. SARATOGA PARTNERS, ET AL.

20-1194 LOPEZ, ARTHUR V. CORONA POLICE DEPT., ET AL.

20-1196 McCLELLAN, BENJAMIN V. OHIO

20-1201 EISENBERG, MICHAEL D. J. V. SWAIN, SHIRLEY

20-1208 AGHA-KHAN, SALMA V. PACIFIC COM. MORTGAGE, ET AL.

20-1217 LAK, DANIEL K. V. CALIFORNIA, ET AL.

20-1235 BURGOYNE, LLC V. CHICAGO RAILROAD CO., ET AL.

20-1243 BURK, STACI V. DUCEY, GOV. OF AZ, ET AL.

20-1245 VASQUEZ, PEDRO V. MASSACHUSETTS

20-1256) FRENCH, MALCOLM A. V. UNITED STATES

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20-7661) RUSSELL, RODNEY V. UNITED STATES

20-1268 SUAREZ, MICHAEL V. AANONSEN, ALF J.

20-1271 BLANTON, DARYL R. V. McDONOUGH, SEC. OF VA

20-1308 WHITE, ROGER D. V. SUPER GASOLINE, INC., ET AL.

20-1359 SUPERAMA CORPORATION, INC. V. TOKYO BROADCASTING SYS., ET AL.

20-1360 HUBBARD, SCOTTLYNN J. V. STATE BAR OF CA

20-1382 GETTINGER, EMANUEL, ET AL. V. PICARD, IRVING H., ET AL.

20-1393 KEEHN, WILLIAM H. V. UNITED STATES

20-1421 BALLERSTEIN, PAUL, ET UX. V. McHATTEN, PENELOPE, ET AL.

20-5686 HULSEY, LYNNE V. SAUL, ANDREW M.

20-6407 GOMEZ, JONATHAN W. V. UNITED STATES

20-6428 HERRON, RONALD V. UNITED STATES

20-6664 MORAN, ROBERTO A. V. GARLAND, ATT'Y GEN.

20-6679 DORTLEY, LARRY V. FLORIDA

20-6914 PETERSEN, RYAN C. V. ALABAMA

20-6957 CENTOFANTI, ALFRED P. V. NEVEN, WARDEN, ET AL.

20-7258 HORN, TOI V. FNMA, ET AL.

20-7279 VUE, ONG V. OKLAHOMA

20-7281 WRIGHT, MICHAEL J. V. CARDENAS, MARIO, ET AL.

20-7293 SAFFORD, WILLIE V. FLORIDA

20-7297 STURGIS, DEMETRIES V. MARYLAND

20-7298 BUNN, ANDREW W. V. WISCONSIN

20-7299 ADKISSON, MICHAEL D. V. NEVADA

20-7303 BARRERA, JOHN J. V. NEWSOME, JESSICA, ET AL.

20-7308 KELSEY, MICHAEL N. V. NEW YORK

20-7309 MALDONADO, PHILLIP V. PENNSYLVANIA

20-7311 MATTHEWS, JUAN V. LOUISIANA

20-7316 MORALES, JOSE L. V. SHERMAN, WARDEN

20-7317 CHESTER, DAREX A. V. CAIN, COMM'R, MS DOC

20-7318 KLINGER, ALEX W. V. OKLAHOMA

20-7321 DOUGLAS, ALAN V. SUPERIOR COURT OF CA

20-7328 MATIAS-MARTINEZ, ALBERTO V. WILLIAMS, EXEC. DIR., CO DOC

20-7329 KNIGHT, JUSTIN L. V. NEBRASKA

20-7335 CARR, RAYMOND E. V. GONZALEZ, SHERIFF, ET AL.

20-7337 THURLOW, KEVIN V. EDMARK, WARDEN

20-7338 TARVER, FOSTER L. V. SHAPIRO, ATT'Y GEN. OF PA

20-7344 DAVIS, CARL D. V. SHINN, DIR., AZ DOC

20-7350 DeVORE, ADAM V. OHIO

20-7374 ALEXANDER, DEMITRIUS W. V. HEADLEY, WARDEN, ET AL.

20-7429 DAVIS, WILLIAM V. SHINN, DIR., AZ DOC, ET AL.

20-7450 PATEL, ANTHONY A. V. REGENTS OF THE UNIVERSITY OF CA

20-7464 LONG, STEPHEN D. V. OHIO

20-7499 BREWER, KEVIN D. V. POLLARD, WARDEN, ET AL.

20-7500 BROWN, CHRISTOPHER N. V. FLORIDA

20-7561 POCOPANNI, MELISSA V. FLORIDA
20-7562 KAMME O. V. TEXAS A&M UNIV., ET AL.
20-7570 FRAZIER, DAVID T. V. SLATERY, ATT'Y GEN. OF TN
20-7572 HOLDEN, JIM B. V. NEVADA, ET AL.
20-7582 GREEN, LONZELL V. CALIFORNIA
20-7628 JOHNSON, DARYL F. V. MISSISSIPPI
20-7632 HIXON, SHANNON D. V. UNITED STATES
20-7633 ALFORD, SAM S. V. INCH, SEC., FL DOC
20-7647 MUHO, GERTI V. UNITED STATES
20-7655 BERSHAN, LISA V. UNITED STATES
20-7656 MONSON, JAMES R. V. UNITED STATES
20-7657 MACLLOYD, DAVID E. V. UNITED STATES
20-7659 SORIANO NUNEZ, ILMA A. V. UNITED STATES
20-7663 WATSON, ANDRE V. UNITED STATES
20-7699 HORN, DeANGELO V. FLORIDA

The petitions for writs of certiorari are denied.

19-825 FTC V. CREDIT BUREAU CENTER, ET AL.

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

20-1165 ARUNACHALAM, LAKSHMI V. CITIGROUP, INC., ET AL.

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

20-1267 BYERS, RONALD E. V. CIR

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

20-7263 ROBINSON, DARRYL A. V. YEE

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.

20-7323 MORETTI, SALVATORE J. V. PARAMUS, NJ

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*). Justice Alito took no part in the consideration or decision of this motion and this petition.

20-7626 MILLER, ROBERT F. V. UNITED STATES

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

HABEAS CORPUS DENIED

20-7715 IN RE RICHARD DeCARO

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of habeas corpus 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*).

MANDAMUS DENIED

20-7354 IN RE MICHAEL ROBINSON

The petition for a writ of mandamus is denied.

REHEARINGS DENIED

19-8650 CAMPBELL, SEBASTIAN A. V. MARYLAND

20-849 P. F. V. J. S., ET AL.

20-6477 ARDANEH, HAMID R. V. MASSACHUSETTS

20-6497 BRIDGES, ANDREY V. GRAY, WARDEN

20-6617 IN RE THERESA ROMAIN

20-6829 BUTTERCASE, JOSEPH J. V. NEBRASKA

The petitions for rehearing are denied.

19-8736 CLARK, LINDA R. V. WASHINGTON

20-6595 BROCKINGTON, CLARA L. V. SALEM UNITED CHURCH, ET AL.

The motions for leave to file petitions for rehearing are denied.

ORDER

It is ordered that Gail A. Curley be appointed Marshal of this Court, effective June 21, 2021.

THOMAS, J., dissenting

SUPREME COURT OF THE UNITED STATES

JANE DOE *v.* UNITED STATES

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

No. 20–559. Decided May 3, 2021

The petition for a writ of certiorari is denied.

JUSTICE THOMAS, dissenting from the denial of certiorari.

Petitioner alleges that she was raped by a fellow cadet while she was a student at the U. S. Military Academy at West Point. She sued the United States under the Federal Tort Claims Act, claiming that West Point’s sexual assault policies were inadequate to protect students from sexual violence. Under the plain text of the Act, petitioner’s status as a West Point cadet should have posed no bar to litigation. But 70 years ago, this Court made the policy judgment that members of the military should not be able to sue for injuries incident to military service. See *Feres v. United States*, 340 U. S. 135 (1950). Relying on *Feres*, the Second Circuit held that sovereign immunity barred petitioner’s claims, even if she could have brought these same claims had she been a civilian contractor employed by West Point instead of a student.

As I have previously explained, this approach has little justification. The Act “renders the United States liable to *all* persons, including servicemen, injured by the negligence of Government employees.” *Lanus v. United States*, 570 U. S. 932 (2013) (THOMAS, J., dissenting from denial of certiorari) (quoting *United States v. Johnson*, 481 U. S. 681, 693 (1987) (Scalia, J., dissenting)); see also *Daniel v. United States*, 587 U. S. ____, __–__ (2019) (THOMAS, J., dissenting from denial of certiorari) (slip op., at 1–2). Emphasizing its breadth, the law contains a narrow carve out for mili-

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tary-related claims: those “arising out of . . . combatant activities . . . during time of war.” 28 U. S. C. §2680(j). This single military exception involving “combatant activities” clearly does not apply here. And, other than this specific exception, the law does not “preclud[e] . . . suits brought by servicemen”—at least not because of their military status. *Lanus*, 570 U. S., at 932. *Feres* was wrongly decided; and this case was wrongly decided as a result.

We should grant certiorari to correct this error. The *Feres* Court’s foray into judicial legislating has been met with “widespread, almost universal criticism.” *Johnson*, 481 U. S., at 700 (Scalia, J., dissenting). And it is easy to see why. Under our precedent, if two Pentagon employees—one civilian and one a servicemember—are hit by a bus in the Pentagon parking lot and sue, it may be that only the civilian would have a chance to litigate his claim on the merits. Cf. *Frankel v. United States*, 810 Fed. Appx. 176, 180–182 (CA4 2020) (*per curiam*) (*Feres* barred claim of servicemember who was struck by a vehicle); *Newton v. Lee*, 677 F. 3d 1017, 1030 (CA10 2012) (*Feres* does not bar claim by “a purely civilian employee of the military”). Nothing in the text of the Act requires this disparate treatment. Nor is there any background rule that federal bus drivers owe a greater duty of care toward workers who are civilian than those who are military.

At a minimum, we should take up this case to clarify the scope of the immunity we have created. Without any statutory text to serve as a guide, lower courts are understandably confused about what counts as an injury “incident” to military service. One might be surprised to learn, for example, that *Feres* sometimes bars claims of a drunken servicemember who drowns, except when it does not. Compare *Morey v. United States*, 903 F. 2d 880, 881 (CA1 1990), with *Dreier v. United States*, 106 F. 3d 844, 845–846 (CA9 1996). Or, to discover that *Feres* apparently forecloses a claim for a servicemember’s injury while waterskiing because the

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recreational boat belonged to the military, but not for an injury while attending a rugby event caused by a service-member’s negligent operation of an Army van. Compare *McConnell v. United States*, 478 F. 3d 1092, 1093–1094 (CA9 2007), with *Whitley v. United States*, 170 F. 3d 1061, 1068–1070 (CA11 1999). And like Judge Chin in dissent, one might be concerned to find out that a student’s *rape* is considered an injury incident to military service. See *Doe v. Hagenbeck*, 870 F. 3d 36, 51, 58–62 (CA2 2017) (“[I]n my view Doe’s injuries did not arise ‘incident to military service’”). But that is exactly what the court held below. See 815 Fed. Appx. 592, 595 (CA2 2020).

Perhaps the Court is hesitant to take up this issue at all because it would require fiddling with a 70-year-old precedent that is demonstrably wrong. But if the *Feres* doctrine is so wrong that we cannot figure out how to rein it in, then the better answer is to bid it farewell. There is precedent for that approach. See, e.g., *Trump v. Hawaii*, 585 U. S. ____, ____ (2018) (slip op., at 38) (overruling *Korematsu v. United States*, 323 U. S. 214 (1944)); *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U. S. 877, 882 (2007) (overruling *Dr. Miles Medical Co. v. John D. Park & Sons Co.*, 220 U. S. 373 (1911)); *Lapides v. Board of Regents of Univ. System of Ga.*, 535 U. S. 613, 623 (2002) (overruling *Ford Motor Co. v. Department of Treasury of Ind.*, 323 U. S. 459 (1945)); *Exxon Corp. v. Central Gulf Lines, Inc.*, 500 U. S. 603, 612 (1991) (overruling *Minturn v. Maynard*, 17 How. 477 (1855)); *Malloy v. Hogan*, 378 U. S. 1, 2, 6 (1964) (overruling *Twining v. New Jersey*, 211 U. S. 78 (1908)); *Brown v. Board of Education*, 347 U. S. 483, 494–495 (1954) (overruling *Plessy v. Ferguson*, 163 U. S. 537 (1896)); *Erie R. Co. v. Tompkins*, 304 U. S. 64, 79–80 (1938) (overruling *Swift v. Tyson*, 16 Pet. 1 (1842)).

We should follow it.