**United States Supreme Court
Criminal & Immigration Law Decisions of the 2021-2022 Term**Updated: *Monday, September 12, 2022*

1. *Brown v. Davenport*, No. 20-826, decided April 21, 2022 **[Federal Habeas Corpus]**
Gorsuch majority, Kagan dissenting
Davenport was convicted of first-degree murder following a jury trial where, at times, he sat shackled at a table with a “privacy screen.” On appeal, he argued that his conviction should be set aside in light of *Deck v. Missouri*, 544 U. S. 622 (2005), in which this Court held that the Fourteenth Amendment’s Due Process Clause generally forbids shackling a criminal defendant at trial absent “a special need.” Finding no “special need” articulated in the record, the Michigan Supreme Court agreed that a *Deck* violation had occurred and remanded the case to the trial court to determine under *Chapman v. California*, 386 U. S. 18 (1967), whether the prosecution could establish that the *Deck* error was harmless beyond a reasonable doubt. On remand, the trial court conducted an evidentiary hearing at which jurors testified that the shackles had not affected their verdict and concluded that the State had carried its burden. Mr. Davenport appealed again, and the Michigan Court of Appeals affirmed the trial court. The Michigan Supreme Court declined review. Davenport petitioned for federal habeas relief. The District Court found relief unwarranted under the Antiterrorism and Effective Death Penalty Act of 1996, which limits the power of federal courts to issue habeas relief to state prisoners. See 28 U.S.C. §2254(d). A divided Sixth Circuit panel reversed, declining to analyze the case under AEDPA. Instead, the court held that its review was governed only by *Brecht v. Abrahamson*, 507 U. S. 619 (1993), which held that a state prisoner seeking to challenge his conviction on the basis of a state court’s Chapman error must show that the error had a “ ‘substantial and injurious effect or influence’ ” on the trial’s outcome, id., at 637. Persuaded that Mr. Davenport could satisfy Brecht, the Sixth Circuit granted federal habeas relief and ordered Michigan either to retry or release Mr. Davenport. This Court granted certiorari to resolve a circuit conflict about the proper interaction between the tests found in *Brecht* and AEDPA. **Held:** When a state court has ruled on the merits of a state prisoner’s claim, a federal court cannot grant habeas relief without applying both the test this Court outlined in *Brecht* and the one Congress prescribed in AEDPA; the Sixth Circuit erred in granting habeas relief to Mr. Davenport based solely on its assessment that he could satisfy the *Brecht* standard.
2. *Concepcion v. United States*, No. 20-1650, decided June 27, 2022 **[First Step Act]**
Sotomayor majority, Kavanaugh dissenting
In 2007, Concepcion pleaded guilty to one count of distributing five or more grams of crack cocaine in violation of 21U. S. C. §841(a)(1), and he was sentenced in 2009 to 19 years (228 months) in prison. When Concepcion was sentenced, he qualified for sentencing as a “career offender,” increasing his Sentencing Guidelines range from 57 to 71 months to 262 to 327 months. Congress passed the Fair Sentencing Act of 2010 to correct the wide disparity between crack and powder cocaine sentencing. The Fair Sentencing Act did not apply retroactively, but in 2011, the Sentencing Commission amended the Sentencing Guidelines to lower the Guidelines range for crack-cocaine offenses and applied that reduction retroactively for some defendants. Because Concepcion was sentenced as a career offender, he was not eligible for relief under the Sentencing Commission’s 2011 amendment. In 2018, Congress enacted the First Step Act, authorizing district courts to “impose a reduced sentence” on defendants serving sentences for certain crack-cocaine offenses “as if sections 2 and 3 of the Fair Sentencing Act . . . were in effect at the time the covered offense was committed.” In 2019, Concepcion filed a pro se motion for a sentence reduction under the First Step Act, contending that retroactive application of the Fair Sentencing Act lowered his Guidelines range from 262 to 327 months to 188 to 235 months. The Government conceded Concepcion’s eligibility for relief but opposed the motion, emphasizing that Concepcion’s original sentence of 228 months fell within the new Guidelines range of 188 to 235 months, and citing factors in Concepcion’s prison record that the Government believed counseled against a sentence reduction. In his reply brief, Concepcion argued that he would no longer be considered a career offender because one of his prior convictions had been vacated and his remaining convictions would not constitute crimes of violence that trigger the enhancement and thus his revised Guidelines range should be 57 to 71 months. He also pointed to post-sentencing evidence of rehabilitation. The District Court denied Concepcion’s motion based on its judgment that the First Step Act did not authorize such relief. The Court of Appeals affirmed in a divided opinion and added to the disagreement among the Circuits as to whether a district court deciding a First Step Act motion must, may, or may not consider intervening changes of law or fact. **Held:** The First Step Act allows district courts to consider intervening changes of law or fact in exercising their discretion to reduce a sentence.
3. *Denezpi v. United States*, No. 20-7622, decided June 13, 2022 **[Double Jeopardy]**Barrett majority, Gorsuch dissenting
An officer with the federal Bureau of Indian Affairs filed a criminal complaint against Denezpi, a member of the Navajo Nation, charging Denezpi with three crimes alleged to have occurred at a house located within the Ute Mountain Ute Reservation: assault and battery, in violation of 6 Ute Mountain Ute Code §2; terroristic threats, in violation of 25 CFR §11.402; and false imprisonment, in violation of 25 CFR §11.404. The complaint was filed in a CFR court, a court which administers justice for Indian tribes in certain parts of Indian country “where tribal courts have not been established.” §11.102. Denezpi pleaded guilty to the assault and battery charge and was sentenced to time served—140 days’ imprisonment. Six months later, a federal grand jury in the District of Colorado indicted Denezpi on one count of aggravated sexual abuse in Indian country, an offense covered by the federal Major Crimes Act. Denezpi moved to dismiss the indictment, arguing that the Double Jeopardy Clause barred the consecutive prosecution. The District Court denied Denezpi’s motion. Denezpi was convicted and sentenced to 360 months’ imprisonment. The Tenth Circuit affirmed. **Held:** The Double Jeopardy Clause does not bar successive prosecutions of distinct offenses arising from a single act, even if a single sovereign prosecutes them.
4. *Egbert v. Boule*, No. 21-147, decided June 8, 2022 **[*Bivens* claims]**Thomas majority, Gorsuch concurring, Sotomayor concurring in part and dissenting in part
Boule owns a bed-and-breakfast—the Smuggler’s Inn—in Blaine, Washington. The inn abuts the international border between Canada and the United States. Boule at times helped federal agents identify and apprehend persons engaged in unlawful cross-border activity on or near his property. But Boule also would provide transportation and lodging to illegal border crossers. Often, Boule would agree to help illegal border crossers enter or exit the United States, only to later call federal agents to report the unlawful activity. In 2014, Boule informed petitioner Erik Egbert, a U. S. Border Patrol agent, that a Turkish national, arriving in Seattle by way of New York, had scheduled transportation to Smuggler’s Inn. When Agent Egbert observed one of Boule’s vehicles returning to the inn, he suspected that the Turkish national was a passenger and followed the vehicle to the inn. On Boule’s account, Boule asked Egbert to leave, but Egbert refused, became violent, and threw Boule first against the vehicle and then to the ground. Egbert then checked the immigration paperwork for Boule’s guest and left after finding everything in order. The Turkish guest unlawfully entered Canada later that evening. Boule filed a grievance with Agent Egbert’s supervisors and an administrative claim with Border Patrol pursuant to the Federal Tort Claims Act (FTCA). Egbert allegedly retaliated against Boule by reporting Boule’s “SMUGLER” license plate to the Washington Department of Licensing for referencing illegal activity, and by contacting the Internal Revenue Service and prompting an audit of Boule’s tax returns. Boule’s FTCA claim was ultimately denied, and Border Patrol took no action against Egbert for his use of force or alleged acts of retaliation. Boule then sued Egbert in Federal District Court, alleging a Fourth Amendment violation for excessive use of force and a First Amendment violation for unlawful retaliation. Invoking *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (1971), Boule asked the District Court to recognize a damages action for each alleged constitutional violation. The District Court declined to extend *Bivens* as requested, but the Court of Appeals reversed. **Held:** *Bivens* does not extend to create causes of action for Boule’s Fourth Amendment excessive-force claim and First Amendment retaliation claim.
5. *Federal Bureau of Investigation et al. v. Fazaga et al.*, No. 20-828, decided March 4, 2022 **[Foreign Intelligence Surveillance Act of 1978]**
Alito unanimous
Respondents Yassir Fazaga, Ali Malik, and Yasser Abdel Rahim, members of Muslim communities in California, filed a putative class action against the Federal Bureau of Investigation and certain Government officials, claiming that the Government subjected them and other Muslims to illegal surveillance under the Foreign Intelligence Surveillance Act of 1978 (FISA). FISA provides special procedures for use when the Government wishes to conduct foreign intelligence surveillance. Relevant here, FISA provides a procedure under which a trial-level court or other authority may consider the legality of electronic surveillance conducted under FISA and order specified forms of relief. See 50 U.S.C. §1806(f). The Government moved to dismiss most of respondents’ claims under the “state secrets” privilege. See, e.g., *General Dynamics Corp. v. United States*, 563 U. S. 478. After reviewing both public and classified filings, the District Court held that the state secrets privilege required dismissal of all respondents’ claims against the Government, except for one claim under §1810, which it dismissed on other grounds. The District Court determined dismissal appropriate because litigation of the dismissed claims “would require or unjustifiably risk disclosure of secret and classified information.” 884 F. Supp. 2d 1022, 1028-1029. The Ninth Circuit reversed in relevant part, holding that “Congress intended FISA to displace the state secrets privilege and its dismissal remedy with respect to electronic surveillance.” 965 F. 3d 1015, 1052. **Held:** Section 1806(f) does not displace the state secrets privilege.
6. *Hemphill v. New York*, No. 20-637, decided January 20, 2022 **[Sixth Amendment Confrontation]**
Sotomayor majority, Alito concurring, Thomas dissenting
In April 2006, a stray 9-millimeter bullet killed a 2-year-old child after a street fight in the Bronx. Police officers determined Ronnell Gilliam was involved and that Nicholas Morris had been at the scene. A search of Morris’ apartment revealed a 9-millimeter cartridge and three .357-caliber bullets. Gilliam initially identified Morris as the shooter, but he subsequently said that Darrell Hemphill, Gilliam’s cousin, was the shooter. Not crediting Gilliam’s recantation, the State charged Morris with the child’s murder and possession of a 9-millimeter handgun. In a subsequent plea deal, the State agreed to dismiss the murder charges against Morris if he pleaded guilty to a new charge of possession of a .357 revolver, a weapon that had not killed the victim. Years later, the State indicted Hemphill for the child’s murder after learning that Hemphill’s DNA matched a blue sweater found in Morris’ apartment shortly after the murder. At his trial, Hemphill elicited undisputed testimony from a prosecution witness that police had recovered 9-millimeter ammunition from Morris’ apartment, thus pointing to Morris as the culprit. Morris was not available to testify at Hemphill’s trial because he was outside the United States. Relying on *People v. Reid*, 19 N. Y. 3d 382, 388, 971 N. E. 2d 353, 357, and over the objection of Hemphill’s counsel, the trial court allowed the State to introduce parts of the transcript of Morris’ plea allocution to the .357 gun possession charge as evidence to rebut Hemphill’s theory that Morris committed the murder. The court reasoned that although Morris’ out-of-court statements had not been subjected to cross-examination, Hemphill’s arguments and evidence had “opened the door” and admission of the statements was reasonably necessary to correct the misleading impression Hemphill had created. The State, in its closing argument, cited Morris’ plea allocution and emphasized that possession of a .357 revolver, not murder, was the crime Morris committed. The jury found Hemphill guilty. Both the New York Appellate Division and the Court of Appeals affirmed Hemphill’s conviction. **Held:** The trial court’s admission of the transcript of Morris’ plea allocution over Hemphill’s objection violated Hemphill’s Sixth Amendment right to confront the witnesses against him.
7. *Johnson, Acting Director of U.S. Immigration and Customs Enforcement, et al. v. Arteaga-Martinez*, No. 19-896, decided June 13, 2022 **[Bond Hearings for Non-Citizens in Detention]**
Sotomayor majority, Thomas concurring, Breyer concurring and dissenting
Arteaga-Martinez is a citizen of Mexico who was removed in July 2012 and reentered the United States in September 2012. U. S. Immigration and Customs Enforcement (ICE) issued a warrant for Arteaga-Martinez’s arrest in 2018. ICE reinstated Arteaga-Martinez’s earlier removal order and detained him pursuant to its authority under the Immigration and Nationality Act. See 8 U.S.C. §1231(a). Arteaga-Martinez applied for withholding of removal under §1231(b)(3), as well as relief under regulations implementing the Convention Against Torture, based on his fear that he would be persecuted or tortured if he returned to Mexico. An asylum officer determined he had established a reasonable fear of persecution or torture, and the Department of Homeland Security referred him for withholding-only proceedings before an immigration judge. After being detained for four months, Arteaga-Martinez filed a petition for a writ of habeas corpus in District Court challenging, on both statutory and constitutional grounds, his continued detention without a bond hearing. The Government conceded that Arteaga-Martinez would be entitled to a bond hearing after six months of detention based on circuit precedent holding that a noncitizen facing prolonged detention under §1231(a)(6) is entitled by statute to a bond hearing before an immigration judge and must be released unless the Government establishes, by clear and convincing evidence, that the noncitizen poses a risk of flight or a danger to the community. The District Court granted relief on Arteaga-Martinez’s statutory claim and ordered the Government to provide Arteaga-Martinez a bond hearing. The Third Circuit summarily affirmed. At the bond hearing, the Immigration Judge considered Arteaga-Martinez’s flight risk and dangerousness and ultimately authorized his release pending resolution of his application for withholding of removal. **Held:** Section 1231(a)(6) does not require the Government to provide noncitizens detained for six months with bond hearings in which the Government bears the burden of proving, by clear and convincing evidence, that a noncitizen poses a flight risk or a danger to the community.
8. *Nance v. Ward, Commissioner, Georgia Department of Corrections, et al.*, No. 21-439, decided June 23, 2022 **[§1983 Challenge to Method of Execution]**
Kagan majority, Barrett dissenting
A prisoner who challenges a State’s proposed method of execution under the Eighth Amendment must identify a readily available alternative method that would significantly reduce the risk of severe pain. If the prisoner proposes a method already authorized under state law, the Court has held that his claim can go forward under 42 U. S. C. §1983, rather than in habeas. See Nelson v. Campbell, 541 U. S. 637, 644–647. But the prisoner is not confined to proposing a method already authorized under state law; he may ask for a method used in other States. See *Bucklew v. Precythe*, 587 U. S. \_\_\_, \_\_\_. The question presented is whether a prisoner who does so may still proceed under §1983. Petitioner Nance brought suit under §1983 to enjoin Georgia from using lethal injection to carry out his execution. Lethal injection is the only method of execution that Georgia law now authorizes. Nance alleges that applying that method to him would create a substantial risk of severe pain. As an alternative to lethal injection, Nance proposes death by firing squad—a method currently approved by four other States. The District Court dismissed Nance’s §1983 suit as untimely. The Eleventh Circuit rejected it for a different reason: that Nance should have advanced his method-of-execution claim by way of a habeas petition rather than a §1983 suit. A habeas petition, that court stated, is appropriate when a prisoner seeks to invalidate his death sentence. And the Eleventh Circuit thought that was what Nance was doing. It asserted that Georgia law—which again, only authorizes execution by lethal injection—had to be taken as “fixed.” 981 F. 3d 1201, 1211. Under that “fixed” law, the court said, enjoining Georgia from executing Nance by lethal injection would mean that he could not be executed at all. The court therefore “reconstrued” Nance’s §1983 complaint as a habeas petition. Id., at 1203. Having done so, the court then dismissed Nance’s petition as “second or successive,” because he had previously sought federal habeas relief. 28 U. S. C. §2244(b). **Held:** Section 1983 remains an appropriate vehicle for a prisoner’s method-of-execution claim where, as here, the prisoner proposes an alternative method not authorized by the State’s death-penalty statute.
9. *New York State Rifle & Pistol Association, Inc., et al. v. Bruen, Superintendent of New York State Police, et al.*, No. 20-843, decided June 23, 2022 **[Second Amendment]**
Thomas majority, Alito concurring, Kavanaugh concurring, Barrett concurring, Breyer dissenting
The State of New York makes it a crime to possess a firearm without a license, whether inside or outside the home. An individual who wants to carry a firearm outside his home may obtain an unrestricted license to “have and carry” a concealed “pistol or revolver” if he can prove that “proper cause exists” for doing so. N. Y. Penal Law Ann. §400.00(2)(f ).An applicant satisfies the “proper cause” requirement only if he can “demonstrate a special need for self-protection distinguishable from that of the general community.” *E.g.*, *In re Klenosky*, 75 App. Div. 2d 793, 428 N. Y. S. 2d 256, 257. Petitioners Koch and Nash are adult, law-abiding New York residents who both applied for unrestricted licenses to carry a handgun in public based on their generalized interest in self-defense. The State denied both of their applications for unrestricted licenses, allegedly because Koch and Nash failed to satisfy the “proper cause” requirement. Petitioners then sued respondents—state officials who oversee the processing of licensing applications—for declaratory and injunctive relief, alleging that respondents violated their Second and Fourteenth Amendment rights by denying their unrestricted-license applications for failure to demonstrate a unique need for self-defense. The District Court dismissed petitioners’ complaint and the Court of Appeals affirmed. Both courts relied on the Second Circuit’s prior decision in *Kachalsky v. County of Westchester*, 701 F. 3d 81, which had sustained New York’s proper-cause standard, holding that the requirement was “substantially related to the achievement of an important governmental interest.” Id., at 96. **Held:** New York’s proper-cause requirement violates the Fourteenth Amendment by preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense.
10. *Oklahoma v. Castro-Huerta*, No. 21-429, decided June 29, 2022 **[Crimes Committed in Indian Country]**
Kavanaugh majority, Gorsuch dissenting
In 2015, respondent Victor Manuel Castro-Huerta was charged by the State of Oklahoma for child neglect. Castro-Huerta was convicted in state court and sentenced to 35 years of imprisonment. While Castro-Huerta’s state-court appeal was pending, this Court decided *McGirt v. Oklahoma*, 591 U. S. \_\_\_. There, the Court held that the Creek Nation’s reservation in eastern Oklahoma had never been properly disestablished and therefore remained “Indian country.” Id., at \_\_\_. In light of *McGirt*, the eastern part of Oklahoma, including Tulsa, is recognized as Indian country. Following this development, Castro-Huerta argued that the Federal Government had exclusive jurisdiction to prosecute him (a non-Indian) for a crime committed against his step-daughter (a Cherokee Indian) in Tulsa (Indian country), and that the State therefore lacked jurisdiction to prosecute him. The Oklahoma Court of Criminal Appeals agreed and vacated his conviction. This Court granted certiorari to determine the extent of a State’s jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country. **Held:** The Federal Government and the State have concurrent jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian country.
11. *Ramirez v. Collier*, No. 21-5592, decided March 24, 2022 **[Execution, Religious Accommodation]**
Roberts majority, Sotomayor concurring, Kavanaugh concurring, Thomas dissenting
A Texas jury sentenced John Ramirez to death after he brutally murdered Pablo Castro in 2004. On February 5, 2021, after years of direct and collateral proceedings concerning Ramirez’s conviction, sentence, and aspects of his execution, Texas informed Ramirez that his execution date would be September 8, 2021. Ramirez then filed a prison grievance requesting that the State allow his long-time pastor to be present in the execution chamber, which Texas initially denied. Texas later changed course and amended its execution protocol to allow a prisoner’s spiritual advisor to enter the execution chamber. On June 11, 2021, Ramirez filed another prison grievance asking that his pastor be permitted to “lay hands” on him and “pray over” him during his execution, acts Ramirez’s grievance explains are part of his faith. Texas denied Ramirez’s request on July 2, 2021, stating that spiritual advisors are not allowed to touch an inmate in the execution chamber. Texas pointed to no provision of its execution protocol requiring this result, and the State had a history of allowing prison chaplains to engage in such activities during executions. Ramirez appealed within the prison system by filing a Step 2 grievance on July 8, 2021. With less than a month until his execution date, and no ruling on his Step 2 grievance, Ramirez filed suit in Federal District Court on August 10, 2021. Ramirez alleged that the refusal of prison officials to allow his pastor to lay hands on him in the execution chamber violated his rights under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and the First Amendment. Ramirez sought preliminary and permanent injunctive relief barring state officials from executing him unless they granted the requested religious accommodation. On August 16, 2021, Ramirez’s attorney inquired whether Ramirez’s pastor would be allowed to pray audibly with him during the execution. After prison officials said no, Ramirez filed an amended complaint seeking an injunction that would allow his pastor to lay hands on him and pray with him during the execution. Ramirez also sought a stay of execution while the District Court considered his claims. The District Court denied the request, as did the Fifth Circuit. This Court then stayed Ramirez’s execution, granted certiorari, and heard argument on an expedited basis. **Held:** Ramirez is likely to succeed on his RLUIPA claims because Texas’s restrictions on religious touch and audible prayer in the execution chamber burden religious exercise and are not the least restrictive means of furthering the State’s compelling interests.
12. *Rivas-Villegas v. Cortesluna*, No. 20-1539, decided October 18, 2021 **[Qualified Immunity]**
Per Curiam
Rivas-Villegas, a police officer in Union City, California, responded to a 911 call reporting that a woman and her two children were barricaded in a room for fear that respondent Ramon Cortesluna, the woman’s boyfriend, was going to hurt them. After confirming that the family had no way of escaping the house, Rivas-Villegas and the other officers present commanded Cortesluna outside and onto the ground. Officers saw a knife in Cortesluna’s left pocket. While Rivas-Villegas and another officer were in the process of removing the knife and handcuffing Cortesluna, Rivas-Villegas briefly placed his knee on the left side of Cortesluna’s back. Cortesluna later sued under Rev. Stat. §1979, 42 U.S.C. §1983, alleging, as relevant, that Rivas-Villegas used excessive force. At issue here is whether Rivas-Villegas is entitled to qualified immunity because he did not violate clearly established law. Cortesluna brought suit under 42 U.S.C. §1983, claiming, as relevant here, that Rivas-Villegas used excessive force in violation of the Fourth Amendment. The District Court granted summary judgment to Rivas-Villegas, but the Court of Appeals for the Ninth Circuit reversed. **Held:** Neither Cortesluna nor the Court of Appeals identified any Supreme Court case that addresses facts like the ones at issue here. Instead, the Court of Appeals relied solely on its precedent in *LaLonde v. County of Riverside*, 204 F. 3d 947 (CA9 2000). Even assuming that Circuit precedent can clearly establish law for purposes of §1983, *LaLonde* is materially distinguishable and thus does not govern the facts of this case.
13. *Ruan v. United States*, No. 20-1410, decided June 27, 2022 **[*Mens Rea* Requirement]**
Breyer majority, Alito concurring
Ruan and Kahn are medical doctors licensed to prescribe controlled substances. Each was tried for violating 21 U. S. C. §841, which makes it a federal crime, “[e]xcept as authorized[,] . . . for any person knowingly or intentionally . . . to manufacture, distribute, or dispense . . . a controlled substance.” A federal regulation authorizes registered doctors to dispense controlled substances via prescription, but only if the prescription is “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” 21 CFR §1306.04(a). At issue in Ruan’s and Kahn’s trials was the *mens rea* required to convict under §841 for distributing controlled substances not “as authorized.” Each was ultimately convicted under §841 for prescribing in an unauthorized manner. Their convictions were separately affirmed by the Courts of Appeals. **Held:** Section 841’s “knowingly or intentionally” *mens rea* applies to the statute’s “except as authorized” clause. Once a defendant meets the burden of producing evidence that his or her conduct was “authorized,” the Government must prove beyond a reasonable doubt that the defendant knowingly or intentionally acted in an unauthorized manner.
14. *Shinn, Director, Arizona Department of Corrections, Rehabilitation and Reentry v. Ramirez*, No. 20-1009, decided May 23, 2022 **[Federal Habeas Corpus]**
Thomas majority, Sotomayor dissenting
Respondents Ramirez and Jones were each convicted of capital crimes in Arizona state court and sentenced to death. The Arizona Supreme Court affirmed each case on direct review, and each prisoner was denied state postconviction relief. Each also filed for federal habeas relief under 28 U.S.C. §2254, arguing that trial counsel had been ineffective for failing to conduct adequate investigations. The Federal District Court held in each case that the prisoner’s ineffective-assistance claim was procedurally defaulted because it was not properly presented in state court. To overcome procedural default in such cases, a prisoner must demonstrate “cause” to excuse the procedural defect and “actual prejudice.” Coleman v. Thompson, 501 U. S. 722, 750 (1991). To demonstrate cause, Ramirez and Jones relied on Martinez v. Ryan, 566 U. S. 1 (2012), which held that ineffective assistance of postconviction counsel may be cited as cause for the procedural default of an ineffective-assistance-of-trial-counsel claim. In Ramirez’s case, the District Court permitted him to supplement the record with evidence not presented in state court to support his case to excuse the procedural default. Assessing the new evidence, the court excused the procedural default but rejected Ramirez’s ineffective-assistance claim on the merits. The Ninth Circuit reversed and remanded for more evidentiary development to litigate the merits of  Ramirez’s ineffective-assistance-of-trial-counsel claim. In Jones’ case, the District Court held a lengthy evidentiary hearing on “cause” and “prejudice,” forgave his procedural default, and held that his state trial counsel had provided ineffective assistance. The State of Arizona petitioned this Court in both cases, arguing that §2254(e)(2) does not permit a federal court to order evidentiary development simply because postconviction counsel is alleged to have negligently failed to develop the state-court record. **Held*:*** Under §2254(e)(2), a federal habeas court may not conduct an evidentiary hearing or otherwise consider evidence beyond the state-court record based on the ineffective assistance of state postconviction counsel.
15. *Shoop, Warden v. Twyford*, No. 21-511, decided June 21, 2022 **[Habeas Corpus, Transportation Order]**
Roberts majority, Breyer dissenting, Gorsuch dissenting
Twyford was convicted by an Ohio jury of aggravated murder and other charges and was sentenced to death. The Ohio appellate courts affirmed his conviction and sentence. Twyford then sought state postconviction relief, claiming that his trial counsel was ineffective for failing to present evidence of a head injury Twyford sustained as a teenager. The Ohio courts rejected his claim, concluding that trial counsel had simply presented a competing psychological theory for Twyford’s actions. Twyford then filed a petition for federal habeas relief. The District Court dismissed most of Twyford’s claims as procedurally defaulted but allowed a few to proceed. He then moved for an order compelling the State to transport him to a medical facility, arguing that neurological testing would plausibly lead to the development of evidence to support his claim that he suffers neurological defects. The District Court granted Twyford’s motion under the All Writs Act, which authorizes federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U. S. C. §1651(a). The Court of Appeals affirmed. Both courts concluded that it was unnecessary to consider the admissibility of any resulting evidence prior to ordering the State to transport Twyford to gather it. **Held:** A transportation order that allows a prisoner to search for new evidence is not “necessary or appropriate in aid of” a federal court’s adjudication of a habeas corpus action when the prisoner has not shown that the desired evidence would be admissible in connection with a particular claim for relief.
16. *Smith v. Dunn, Commissioner, Alabama Department of Corrections, et al.*, No. 21-6055, decided October 21, 2021 **[Death Penalty, Selection of Method of Execution]**
Sotomayor Respecting the Denial of the Application for Stay
Smith, who was sentenced to die by lethal injection in Alabama, sought instead to be executed by nitrogen hypoxia, which was been a statutorily approved method of execution in Alabama since 2018. When the Alabama Legislature adopted nitrogen hypoxia as an approved means of execution, it expressly provided that individuals like Smith who were already on death row could choose to be executed by nitrogen hypoxia, but provided only a 30-day window in June 2018 in which to make this election. Smith alleged that he missed this opportunity because his intellectual disabilities rendered him unable to understand the election form that the Alabama Department of Corrections (ADOC) provided during that time. He filed suit in November 2019 seeking to elect nitrogen hypoxia as an alternative to lethal injection. Alabama opposed the request. The law compels denial of Smith’s request for a stay of execution for the reasons identified by the Eleventh Circuit. Judge Jill Pryor, concurring in the decision below, however, identified serious concerns with the way the ADOC has administered the Alabama Legislature’s directive to allow those on death row to choose nitrogen hypoxia as their means of execution. The Court previously considered the inequities engendered by this tight timeline. *Dunn v. Price*, 587 U. S. \_\_\_ (2019). Alabama does not dispute that Willie Smith has significantly below-average intellectual functioning. Although the State debates his precise reading level and IQ, those disputes do not resolve the fundamental inequity: the State’s compressed timeline for notifying eligible inmates and haphazard approach to doing so. Once a State has determined that individuals on death row should have a choice as to how the State will execute them, it should ensure that a meaningful choice is provided.
17. *City of Tahlequah v. Bond*, No. 20-1668, decided October 18, 2021 **[Qualified Immunity]**
Per Curiam
Dominic Rollice’s ex-wife, Joy, called 911. Rollice was in her garage, she explained, and he was intoxicated and would not leave. Joy requested police assistance; otherwise, “it’s going to get ugly real quick.” After police arrived and encountered Rollice, he grabbed a hammer from the back wall over the workbench and turned around to face the officers. Rollice grasped the handle of the hammer with both hands, as if preparing to swing a baseball bat, and pulled it up to shoulder level. The officers backed up, drawing their guns. At this point the video is no longer silent, and the officers can be heard yelling at Rollice to drop the hammer. He did not. Instead, Rollice took a few steps to his right, coming out from behind a piece of furniture so that he had an unobstructed path to Officer Girdner. He then raised the hammer higher back behind his head and took a stance as if he was about to throw the hammer or charge at the officers. In response, Officers Girdner and Vick fired their weapons, killing Rollice. Rollice’s estate filed suit against, among others, Officers Girdner and Vick, alleging that the officers were liable under 42 U.S.C. §1983, for violating Rollice’s Fourth Amendment right to be free from excessive force. The officers moved for summary judgment, both on the merits and on qualified immunity grounds. The District Court granted their motion. *Burke v. Tahlequah*, 2019 WL 4674316, \*6 (ED Okla., Sept. 25, 2019). The officers’ use of force was reasonable, it concluded, and even if not, qualified immunity prevented the case from going further. *Ibid*. A panel of the Court of Appeals for the Tenth Circuit reversed. **Held:** We need not, and do not, decide whether the officers violated the Fourth Amendment in the first place, or whether recklessly creating a situation that requires deadly force can itself violate the Fourth Amendment. On this record, the officers plainly did not violate any clearly established law. Officers Girdner and Vick, by contrast, engaged in a conversation with Rollice, followed him into a garage at a distance of 6 to 10 feet, and did not yell until after he picked up a hammer. We cannot conclude that *Allen v. Muskogee*, 119 F. 3d 837 (CA10 1997) “clearly established” that their conduct was reckless or that their ultimate use of force was unlawful.
18. *Thompson v. Clark, et al.*, No. 20-659, decided April 4, 2022 **[§1983 and Termination of Criminal Prosecution]**
Kavanaugh majority, Alito dissenting
In January 2014, petitioner Larry Thompson was living with his fiancée (now wife) and their newborn baby in an apartment in Brooklyn, New York. Thompson’s sister-in-law, who apparently suffered from a mental illness, called 911 to report that Thompson was sexually abusing the baby. When Emergency Medical Technicians arrived, Thompson denied that anyone had called 911. When the EMTs returned with four police officers, Thompson told them that they could not enter without a warrant. The police nonetheless entered and handcuffed Thompson. EMTs took the baby to the hospital where medical professionals examined her and found no signs of abuse. Meanwhile, Thompson was arrested and charged with obstructing governmental administration and resisting arrest. He was detained for two days before being released. The charges against Thompson were dismissed before trial without any explanation by the prosecutor or judge. After the dismissal, Thompson filed suit under 42 U.S.C. §1983, alleging several constitutional violations, including a Fourth Amendment claim for malicious prosecution. To maintain that Fourth Amendment claim under §1983, a plaintiff such as Thompson must demonstrate, among other things, that he obtained a favorable termination of the underlying criminal prosecution. To meet that requirement, Second Circuit precedent required Thompson to show that his criminal prosecution ended not merely without a conviction, but also with some affirmative indication of his innocence. See Lanning v. Glens Falls, 908 F. 3d 19, 22. The District Court, bound by Lanning, held that Thompson’s criminal case had not ended in a way that affirmatively indicated his innocence because Thompson could not offer any substantial evidence to explain why his case was dismissed. The Second Circuit affirmed the dismissal of Thompson’s claim. This Court granted certiorari to resolve a split among the Courts of Appeals over how to apply the favorable termination requirement of the Fourth Amendment claim under §1983 for malicious prosecution. **Held:** To demonstrate a favorable termination of a criminal prosecution for purposes of the Fourth Amendment claim under §1983 for malicious prosecution, a plaintiff need not show that the criminal prosecution ended with some affirmative indication of innocence. A plaintiff need only show that his prosecution ended without a conviction. Thompson has satisfied that requirement here.
19. *United States v. Taylor*, No. 20-1459, decided June 21, 2022 **[Hobbs Act, Crime of Violence]**
Gorsuch majority, Thomas dissenting
For his participation in an unsuccessful robbery during which his accomplice shot a man, respondent Justin Taylor faced charges of violating the Hobbs Act, 18 U. S. C. §1951(a), and of committing a “crime of violence” under §924(c). The Hobbs Act makes it a federal crime to commit, attempt to commit, or conspire to commit a robbery with an interstate component. §1951(a). Section 924(c) authorizes enhanced punishments for those who use a firearm in connection with a “crime of violence” as defined in either §924(c)(3)(A)—known as the elements clause—or §924(c)(3)(B)—known as the residual clause. Before the District Court, the government argued that Taylor’s Hobbs Act offense qualified as a “crime of violence” under §924(c). Taylor ultimately pleaded guilty to one count each of violating the Hobbs Act and §924(c). The District Court sentenced Taylor to 30 years in federal prison—a decade more than the maximum sentence for his Hobbs Act conviction alone. Taylor later filed a federal habeas petition focused on his §924(c) conviction, which was predicated on his admission that he had committed both conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery. Taylor argued neither Hobbs Act offense qualified as a “crime of violence” for purposes of §924(c) after *United States v. Davis*, 588 U. S. \_\_\_. In *Davis*, this Court held that §924(c)(3)(B)’s residual clause was unconstitutionally vague. Id., at \_\_\_–\_\_\_. In his habeas proceeding, Taylor asked the court to apply Davis retroactively and vacate his §924(c) conviction and sentence. The government maintained that Taylor’s §924(c) conviction and sentence remained sound because his crime of attempted Hobbs Act robbery qualifies as a crime of violence under the elements clause. The Fourth Circuit held that attempted Hobbs Act robbery does not qualify as a crime of violence under §924(c)(3)(A). The Fourth Circuit vacated Taylor’s §924(c) conviction and remanded the case for resentencing. In reaching its judgment, the Fourth Circuit noted that other courts have held that attempted Hobbs Act robbery does qualify as a crime of violence under the elements clause. **Held:** Attempted Hobbs Act robbery does not qualify as a “crime of violence” under §924(c)(3)(A) because no element of the offense requires proof that the defendant used, attempted to use, or threatened to use force.
20. *United States v. Tsarnaev*, No. 20-443, decided March 4, 2022 **[Death Penalty, Jury Questions and Exclusion of Evidence]**
Thomas majority, Barrett concurring, Breyer dissenting.
On April 15, 2013, brothers Dzhokhar and Tamerlan Tsarnaev planted and detonated two homemade pressure-cooker bombs near the finish line of the Boston Marathon, killing three and wounding hundreds. Three days later, as investigators began to close in, the brothers fled. In the process, they murdered a Massachusetts Institute of Technology campus police officer, carjacked a graduate student, and fought a street battle with police during which Dzhokhar inadvertently ran over and killed Tamerlan. Dzhokhar eventually abandoned the vehicle and hid in a covered boat being stored in a nearby backyard. He was arrested the following day. Dzhokhar was indicted for 30 crimes, including 17 capital offenses. To prepare for jury selection, the parties proposed a 100-question screening form, which included several questions regarding whether media coverage may have biased prospective jurors. The District Court declined to include a proposed question that asked each prospective juror to list the facts he had learned about the case from the media and other sources. According to the District Court, the question was too “unfocused” and “unguided.” Following three weeks of in-person questioning, a jury was seated. The jury found Dzhokhar guilty on all counts, and the Government sought the death penalty.
At sentencing, Dzhokhar sought mitigation based on the theory that Tamerlan had masterminded the bombing and pressured Dzhokhar to participate. In an attempt to show Tamerlan’s domineering nature, Dzhokhar sought to introduce the statements of Ibragim Todashev, who had alleged during an FBI interview that, years earlier, Tamerlan had participated in a triple homicide in Waltham, Massachusetts. The Government asked the trial court to exclude any reference to the Waltham murders on the grounds that the evidence either lacked relevance or, alternatively, lacked probative value and was likely to confuse the issues. The Government also pointed out that, because FBI agents had killed Todashev in self-defense after he attacked them during the interview, there were no living witnesses to the Waltham murders. The District Court excluded the evidence, and the jury concluded that 6 of Dzhokhar’s crimes warranted the death penalty. The Court of Appeals vacated Dzhokhar’s capital sentences on two grounds. First, the court held that the District Court abused its discretion during jury selection by declining to ask about the kind and degree of each prospective juror’s media exposure, as required by that court’s decision in *Patriarca v. United States*, 402 F. 2d 314. Second, the court held that the District Court abused its discretion during sentencing when it excluded evidence concerning Tamerlan’s possible involvement in the Waltham murders. **Held:** The Court of Appeals improperly vacated Dzhokhar’s capital sentences.
21. *Vega v. Tekoh*, No. 21-499, decided June 23, 2022 **[§1983 Claim]**
Alito majority, Kagan dissenting
The case arose out of the interrogation of respondent, Terence Tekoh, by petitioner, Los Angeles County Sheriff ’s Deputy Carlos Vega. Deputy Vega questioned Tekoh at the medical center where Tekoh worked regarding the reported sexual assault of a patient. Vega did not inform Tekoh of his rights under *Miranda v. Arizona*, 384 U. S. 436 (1966). Tekoh eventually provided a written statement apologizing for inappropriately touching the patient’s genitals. Tekoh was prosecuted for unlawful sexual penetration. His written statement was admitted against him at trial. After the jury returned a verdict of not guilty, Tekoh sued Vega under 42 U. S. C. §1983, seeking damages for alleged violations of his constitutional rights. The Ninth Circuit held that the use of an un-Mirandized statement against a defendant in a criminal proceeding violates the Fifth Amendment and may support a §1983 claim against the officer who obtained the statement. **Held:** A violation of the Miranda rules does not provide a basis for a §1983 claim.
22. *Wooden v. United States*, No. 20-5279, decided March 7, 2022 **[Armed Career Criminal Act, Prior Convictions]**
Kagan majority, Sotomayor concurring, Barrett concurring, Gorsuch concurring
A jury convicted William Dale Wooden of being a felon in possession of a firearm in violation of 18 U.S.C. §922(g). The Government asked the District Court to sentence Wooden under the Armed Career Criminal Act (ACCA). ACCA mandates a 15-year minimum penalty for §922(g) offenders with at least three prior convictions for specified felonies “committed on occasions different from one another.” §924(e)(1). Wooden’s relevant criminal record included ten burglary convictions arising out of a single criminal episode in 1997, during which Wooden had unlawfully entered a one-building storage facility and stolen items from ten different storage units. Prosecutors indicted Wooden on ten counts of burglary—one for each storage unit—and Wooden pleaded guilty to all counts. Years later, at Wooden’s sentencing hearing on his §922(g) conviction, the District Court applied ACCA’s penalty enhancement in accordance with the Government’s view that Wooden had commenced a new “occasion” of criminal activity each time he left one storage unit and entered another. The resulting sentence was almost sixteen years, much higher than the statutory maximum for Wooden’s crime absent such an enhancement. The Sixth Circuit affirmed, reasoning that ACCA’s occasions clause is satisfied whenever crimes take place at different moments in time—that is, sequentially rather than simultaneously. **Held:** Wooden’s ten burglary offenses arising from a single criminal episode did not occur on different “occasions” and thus count as only one prior conviction for purposes of ACCA.