



KeyCite Yellow Flag - Negative Treatment

Not Followed on State Law Grounds People v. LaValle, N.Y.,

June 24, 2004

119 S.Ct. 2090

Supreme Court of the United States

Louis JONES, Petitioner,

v.

UNITED STATES.

No. 97-9361.

|

Argued Feb. 22, 1999.

|

Decided June 21, 1999.

|

Rehearing Denied Aug. 23, 1999.

See 527 U.S. 1058, 120 S.Ct. 22.**Synopsis**

Defendant was convicted in the United States District Court for the Northern District of Texas, Sam R. Cummings, J., of kidnapping with death resulting, and was sentenced to death. Defendant appealed, and the Court of Appeals for the Fifth Circuit affirmed, 132 F.3d 232. Certiorari was granted, and the Supreme Court, Justice Thomas, held that: (1) under Federal Death Penalty Act, jury's failure to reach unanimous verdict recommending either death sentence, or life imprisonment without possibility of release, does not create "good cause" for discharge of jury, as will require court to impanel a second jury; (2) Eighth Amendment did not require that jury be instructed as to consequences of their failure to agree on verdict; (3) instructions to which defendant failed to raise timely objection would be reviewed for plain error; (4) instructions did not impermissibly lead jurors to believe that defendant would receive lesser sentence if they did not unanimously recommend death or life without release; and (5) any error in allowing jury to consider allegedly vague, overbroad, and duplicative nonstatutory aggravating factors was harmless.

Affirmed.

Justice Ginsburg dissented and filed an opinion in which Justice Stevens and Justice Souter joined, and in which Justice Breyer joined in part.

West Headnotes (36)

[1] Criminal Law

🔑 Assent of required number of jurors

Sentencing and Punishment

🔑 Necessity for new jury

110 Criminal Law110XX Trial110XX(K) Verdict110k872.5 Assent of required number of jurors350H Sentencing and Punishment350HVIII The Death Penalty350HVIII(G) Proceedings350HVIII(G)3 Hearing350Hk1779 Matters Related to Jury350Hk1779(2) Necessity for new jury(Formerly 110k1208.1(6))

Failure of jury which sits during guilt phase of capital trial under Federal Death Penalty Act to reach unanimous verdict recommending either death sentence, or life imprisonment without possibility of release, does not create "good cause" for discharge of jury, as will require court to impanel a second jury and hold a second sentencing hearing; while "good cause" encompasses events such as juror disqualification, it cannot be read so expansively as to include a jury's deadlock. 18 U.S.C.A. § 3593(b)(2)(C).

16 Cases that cite this headnote**[2] Criminal Law**

🔑 Assent of required number of jurors

Sentencing and Punishment

🔑 Unanimity

110 Criminal Law110XX Trial

[110XX\(K\)](#) Verdict
[110k872.5](#) Assent of required number of jurors
[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(G\)](#) Proceedings
[350HVIII\(G\)4](#) Determination and Disposition
[350Hk1786](#) Unanimity
 (Formerly 110k1208.1(6))

Under Federal Death Penalty Act, whenever jury reaches a result other than a unanimous verdict recommending a death sentence, or life imprisonment without the possibility of release, during sentencing hearing, duty of sentencing falls upon district court. 18 U.S.C.A. §§ 3593(b)(2)(C), (e), 3594.

[9 Cases that cite this headnote](#)

[3] **Criminal Law**

🔑 [Matters of law in general](#)

Sentencing and Punishment

🔑 [Instructions](#)

[110](#) Criminal Law
[110XX](#) Trial
[110XX\(G\)](#) Instructions:Necessity, Requisites, and Sufficiency
[110k790](#) Matters of law in general
[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(G\)](#) Proceedings
[350HVIII\(G\)3](#) Hearing
[350Hk1780](#) Conduct of Hearing
[350Hk1780\(3\)](#) Instructions
 (Formerly 110k1213.7)

Eighth Amendment prohibition of cruel and unusual punishment does not require that jury be instructed as to consequences of their failure to agree on verdict in capital trial. U.S.C.A. Const.Amend. 8.

[31 Cases that cite this headnote](#)

[4] **Sentencing and Punishment**

🔑 [Avoidance of arbitrariness or capriciousness](#)

[350H](#) Sentencing and Punishment

[350HVIII](#) The Death Penalty
[350HVIII\(A\)](#) In General
[350Hk1613](#) Requirements for Imposition
[350Hk1616](#) Avoidance of arbitrariness or capriciousness
 (Formerly 110k1213.8(8))
 Eighth Amendment prohibition of cruel and unusual punishment requires that a sentence of death not be imposed arbitrarily. U.S.C.A. Const.Amend. 8.

[6 Cases that cite this headnote](#)

[5] **Sentencing and Punishment**

🔑 [Individualized determination](#)

Sentencing and Punishment

🔑 [Narrowing class of eligible offenders](#)

[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(A\)](#) In General
[350Hk1613](#) Requirements for Imposition
[350Hk1615](#) Individualized determination
 (Formerly 110k1213.8(8))
[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(A\)](#) In General
[350Hk1613](#) Requirements for Imposition
[350Hk1618](#) Narrowing class of eligible offenders
 (Formerly 110k1213.8(8))

In order for a capital sentencing scheme to pass constitutional muster under Eighth Amendment, it must perform a narrowing function with respect to the class of persons eligible for the death penalty, and must also ensure that capital sentencing decisions rest upon an individualized inquiry. U.S.C.A. Const.Amend. 8.

[16 Cases that cite this headnote](#)

[6] **Sentencing and Punishment**

🔑 [Evidence in mitigation in general](#)

[350H](#) Sentencing and Punishment

[350HVIII](#) The Death Penalty
[350HVIII\(G\)](#) Proceedings
[350HVIII\(G\)2](#) Evidence
[350Hk1755](#) Admissibility
[350Hk1757](#) Evidence in mitigation in general

(Formerly 110k1213.8(8))

In order to satisfy Eighth Amendment requirement that capital sentencing decisions rest upon an individualized inquiry, scheme governing “selection phase,” in which jury decides whether death-eligible defendant will receive death penalty, must allow a broad inquiry into all constitutionally relevant mitigating evidence. U.S.C.A. Const.Amend. 8.

[28 Cases that cite this headnote](#)

[7] **Sentencing and Punishment**

🔑 **Matters Related to Jury**

[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(G\)](#) Proceedings
[350HVIII\(G\)3](#) Hearing
[350Hk1779](#) Matters Related to Jury
[350Hk1779\(1\)](#) In general

(Formerly 110k1213.8(8))

Eighth Amendment prohibits jury from being affirmatively misled regarding its role in capital sentencing process. U.S.C.A. Const.Amend. 8.

[11 Cases that cite this headnote](#)

[8] **Criminal Law**

🔑 **Matters of law in general**

Sentencing and Punishment

🔑 **Instructions**

[110](#) Criminal Law
[110XX](#) Trial
[110XX\(G\)](#) Instructions:Necessity, Requisites, and Sufficiency
[110k790](#) Matters of law in general
[350H](#) Sentencing and Punishment
[350HVIII](#) The Death Penalty
[350HVIII\(G\)](#) Proceedings
[350HVIII\(G\)3](#) Hearing
[350Hk1780](#) Conduct of Hearing

[350Hk1780\(3\)](#) Instructions
 (Formerly 110k1213.7)

Failure to instruct jury as to consequences of deadlock during sentencing hearing held pursuant to Federal Death Penalty Act did not affirmatively mislead jury regarding its role in sentencing process, as would violate Eighth Amendment's prohibition on cruel and unusual punishment. U.S.C.A. Const.Amend. 8; 18 U.S.C.A. § 3593.

[56 Cases that cite this headnote](#)

[9] **Sentencing and Punishment**

🔑 **Instructions**

[350H](#) Sentencing and Punishment
[350HVII](#) Cruel and Unusual Punishment in General
[350HVII\(D\)](#) Prosecutions
[350Hk1465](#) Instructions
 (Formerly 110k1213.7)

Eighth Amendment prohibition of cruel and unusual punishment does not require a jury be instructed as to the consequences of a breakdown in the deliberative process. U.S.C.A. Const.Amend. 8.

[13 Cases that cite this headnote](#)

[10] **Criminal Law**

🔑 **Assent of required number of jurors**

[110](#) Criminal Law
[110XX](#) Trial
[110XX\(K\)](#) Verdict
[110k872.5](#) Assent of required number of jurors

The very object of the jury system is to secure unanimity by a comparison of views, and by arguments among the jurors themselves.

[12 Cases that cite this headnote](#)

[11] **Sentencing and Punishment**

🔑 **Matters Related to Jury**

350H Sentencing and Punishment
350HVIII The Death Penalty
350HVIII(G) Proceedings
350HVIII(G)3 Hearing
350Hk1779 Matters Related to Jury
350Hk1779(1) In general
 (Formerly 110k1208.1(6))

In a capital sentencing proceeding, Government has a strong interest in having the jury express the conscience of the community on the ultimate question of life or death.

19 Cases that cite this headnote

[12] **Criminal Law**

🔑 Matters of law in general

110 Criminal Law
110XX Trial
110XX(G) Instructions:Necessity, Requisites, and Sufficiency
110k790 Matters of law in general
 No requirement exists that instruction on the consequences of jury deadlock be given in every capital case under Federal Death Penalty Act. 18 U.S.C.A. §3593.

14 Cases that cite this headnote

[13] **Criminal Law**

🔑 Time for, and form of, objection

Criminal Law

🔑 Necessity of specific objection

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1038 Instructions
110k1038.1 Objections in General
110k1038.1(7) Time for, and form of, objection
110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General

110k1043 Scope and Effect of Objection
110k1043(2) Necessity of specific objection

A party generally may not assign error to a jury instruction if he fails to object before the jury retires, or to state distinctly the matter to which he objects and the grounds of the objection. Fed.Rules Cr.Proc.Rule 30, 18 U.S.C.A.

10 Cases that cite this headnote

[14] **Criminal Law**

🔑 Time for, and form of, objection

Criminal Law

🔑 Necessity of specific objection

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1038 Instructions
110k1038.1 Objections in General
110k1038.1(7) Time for, and form of, objection
110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1043 Scope and Effect of Objection
110k1043(2) Necessity of specific objection
 Timeliness and specificity requirements for preservation of alleged error in jury instructions in proceeding under Federal Death Penalty Act apply during sentencing phase as well as trial. 18 U.S.C.A. § 3595(c)(2)(C); Fed.Rules Cr.Proc.Rules 1, 54(a), 18 U.S.C.A.

8 Cases that cite this headnote

[15] **Criminal Law**

🔑 Time for, and form of, objection

Criminal Law

🔑 Necessity of specific objection

[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1038 Instructions](#)
[110k1038.1 Objections in General](#)
[110k1038.1\(7\) Time for, and form of, objection](#)
[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1043 Scope and Effect of Objection](#)
[110k1043\(2\) Necessity of specific objection](#)
 Timeliness and specificity requirements for preservation of objections to jury instructions enable a trial court to correct any instructional mistakes before the jury retires, and in that way help to avoid the burdens of an unnecessary retrial. [Fed.Rules Cr.Proc.Rule 30, 18 U.S.C.A.](#)

[11 Cases that cite this headnote](#)

[16] **[Criminal Law](#)**

🔑 [Time for, and form of, objection](#)

[Criminal Law](#)

🔑 [Sufficiency and Scope of Motion](#)

[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1038 Instructions](#)
[110k1038.1 Objections in General](#)
[110k1038.1\(7\) Time for, and form of, objection](#)
[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1044 Motion Presenting Objection](#)

[110k1044.2 Sufficiency and Scope of Motion](#)

[110k1044.2\(1\) In general](#)

While an objection in a directed verdict motion before the jury retires can preserve a claim of error in jury instructions, objections raised after the jury has completed its deliberations do not. [Fed.Rules Cr.Proc.Rule 30, 18 U.S.C.A.](#)

[10 Cases that cite this headnote](#)

[17] **[Criminal Law](#)**

🔑 [Plain or fundamental error](#)

[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1038 Instructions](#)
[110k1038.1 Objections in General](#)
[110k1038.1\(2\) Plain or fundamental error](#)
 Provision of Federal Death Penalty Act under which appellate court shall remand a case if it finds that death sentence was imposed under influence of passion, prejudice, or any other arbitrary factor does not create exception to rule under which unpreserved objections to jury instructions may be reviewed only for plain error. [18 U.S.C.A. § 3595\(c\)\(2\)\(A\); Fed.Rules Cr.Proc.Rules 30, 52\(b\), 18 U.S.C.A.](#)

[94 Cases that cite this headnote](#)

[18] **[Criminal Law](#)**

🔑 [Time for, and form of, objection](#)

[110 Criminal Law](#)
[110XXIV Review](#)
[110XXIV\(E\) Presentation and Reservation in Lower Court of Grounds of Review](#)
[110XXIV\(E\)1 In General](#)
[110k1038 Instructions](#)
[110k1038.1 Objections in General](#)

[110k1038.1\(7\)](#) Time for, and form of, objection

Objections to jury instructions which defendant failed to raise before jury retired in proceeding under Federal Death Penalty Act would be reviewed only for plain error. [18 U.S.C.A. § 3595](#); [Fed.Rules Cr.Proc.Rules 30, 52\(b\)](#), [18 U.S.C.A.](#)

[16 Cases that cite this headnote](#)

[19] **Statutes**

[Context](#)

[361](#) Statutes

[361III](#) Construction

[361III\(E\)](#) Statute as a Whole;Relation of Parts to Whole and to One Another

[361k1153](#) Context

(Formerly [361k208](#))

Statutory language must be read in context, and a phrase gathers meaning from the words around it.

[22 Cases that cite this headnote](#)

[20] **Sentencing and Punishment**

[Presentation and reservation in lower court of grounds of review](#)

[350H](#) Sentencing and Punishment

[350HVIII](#) The Death Penalty

[350HVIII\(G\)](#) Proceedings

[350HVIII\(G\)4](#) Determination and Disposition

[350Hk1788](#) Review of Death Sentence

[350Hk1788\(3\)](#) Presentation and reservation in lower court of grounds of review

(Formerly [110k1042](#))

In enacting Federal Death Penalty Act, Congress sought to impose a timely objection requirement at sentencing, and did not intend to equate with legal error the phrase “arbitrary factor,” as used in provision under which appellate court shall remand a case if it finds that death sentence was imposed under influence of passion, prejudice, or any other arbitrary factor, with legal error. [18 U.S.C.A. § 3595\(c\)\(2\)\(A\)](#).

[7 Cases that cite this headnote](#)

[21] **Criminal Law**

[Necessity of Objections in General](#)

[110](#) Criminal Law

[110XXIV](#) Review

[110XXIV\(E\)](#) Presentation and Reservation in Lower Court of Grounds of Review

[110XXIV\(E\)1](#) In General

[110k1030](#) Necessity of Objections in General

[110k1030\(1\)](#) In general

Under plain error standard of review, relief is not warranted unless there has been (1) error (2) that is plain, and (3) affects substantial rights. [Fed.Rules Cr.Proc.Rule 52\(b\)](#), [28 U.S.C.A.](#)

[51 Cases that cite this headnote](#)

[22] **Criminal Law**

[Necessity of Objections in General](#)

[110](#) Criminal Law

[110XXIV](#) Review

[110XXIV\(E\)](#) Presentation and Reservation in Lower Court of Grounds of Review

[110XXIV\(E\)1](#) In General

[110k1030](#) Necessity of Objections in General

[110k1030\(1\)](#) In general

Appellate review under plain error doctrine is circumscribed, and court will exercise its power under rule governing plain error review sparingly. [Fed.Rules Cr.Proc.Rule 52\(b\)](#), [28 U.S.C.A.](#)

[23 Cases that cite this headnote](#)

[23] **Criminal Law**

[Necessity of Objections in General](#)

[110](#) Criminal Law

[110XXIV](#) Review

[110XXIV\(E\)](#) Presentation and Reservation in Lower Court of Grounds of Review

[110XXIV\(E\)1](#) In General

110k1030 Necessity of Objections in General

110k1030(1) In general

Appellate court should exercise its discretion to correct plain error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. Fed.Rules Cr.Proc.Rule 52(b), 28 U.S.C.A.

59 Cases that cite this headnote

sentence if jury failed to unanimously recommend sentence of death or life imprisonment without release, when read alongside unambiguous charge that any sentencing recommendation be unanimous, and other instructions explicitly identifying when jury need not be unanimous. 18 U.S.C.A. § 3591 et seq.

15 Cases that cite this headnote

[24] Criminal Law

🔑 Instructions in general

110 Criminal Law

110XXIV Review

110XXIV(Q) Harmless and Reversible Error

110k1172 Instructions

110k1172.1 In General

110k1172.1(1) Instructions in general

Proper standard for reviewing claim that instruction caused impermissible jury confusion is whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way that violates Federal Constitution.

43 Cases that cite this headnote

[25] Criminal Law

🔑 Construction and Effect of Charge as a Whole

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity, Requisites, and Sufficiency

110k822 Construction and Effect of Charge as a Whole

110k822(1) In general

Instruction in proceeding under Federal Death Penalty Act that if jurors recommended imposition of lesser sentence than death sentence, or sentence of life imprisonment without release, court would be required to impose a sentence authorized by law, did not impermissibly lead jurors to believe that defendant would receive lesser

[26] Criminal Law

🔑 Construction and Effect of Charge as a Whole

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity, Requisites, and Sufficiency

110k822 Construction and Effect of Charge as a Whole

110k822(1) In general

Jury instructions must be evaluated not in isolation, but in the context of the entire charge.

93 Cases that cite this headnote

[27] Criminal Law

🔑 Error in Instructions Cured by Withdrawal or Giving Other Instructions

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity, Requisites, and Sufficiency

110k823 Error in Instructions Cured by Withdrawal or Giving Other Instructions

110k823(1) In general

Instructions that might be ambiguous in the abstract can be cured when read in conjunction with other instructions.

15 Cases that cite this headnote

[28] Criminal Law

🔑 Construction and Effect of Charge as a Whole

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity,
Requisites, and Sufficiency

110k822 Construction and Effect of
Charge as a Whole

110k822(1) In general

Ambiguity and confusion allegedly created in proceeding under Federal Death Penalty Act by fact that decision form for lesser sentence recommendation did not contain phrase “by unanimous vote,” while decision forms for recommendations of death sentence and life imprisonment without possibility of release did require unanimity, was cured when considered in light of entire jury instruction, which explicitly stated that jury had to be unanimous, and exhorted it to discuss punishment and reach agreement. 18 U.S.C.A. § 3591 et seq.

70 Cases that cite this headnote

[29] **Criminal Law**

🔑 Form of verdict

110 Criminal Law

110XX Trial

110XX(G) Instructions:Necessity,
Requisites, and Sufficiency

110k798.5 Form of verdict

Fact that decision form for lesser sentence recommendation in proceeding under Federal Death Penalty Act required only jury foreperson's signature, unlike forms for recommendations of death sentence and life imprisonment without possibility of release, did not create reasonable likelihood of confusion over effect of juror nonunanimity, where lesser sentence form used phrase “We the jury recommend,” like other forms, and thus signaled that form represented jury's recommendation, and foreperson alone signed verdict forms to indicate jury's agreement. 18 U.S.C.A. § 3591 et seq.

2 Cases that cite this headnote

[30] **Federal Courts**

🔑 Presentation of Questions Below
or on Review;Record;Waiver

170B Federal Courts

170BXVI Supreme Court

170BXVI(D) Presentation of Questions
Below or on Review;Record;Waiver

170Bk3181 In general

(Formerly 170Bk461)

Supreme Court would decline to review ruling by Court of Appeals that affidavits prepared after jury had returned its sentencing recommendation in capital murder case could not be relied upon to undermine recommendation, where issue was not raised in any of questions presented by petitioner, or fairly included with them. U.S.Sup.Ct.Rule, 14.1(a), 28 U.S.C.A.

3 Cases that cite this headnote

[31] **Criminal Law**

🔑 Particular Instructions

110 Criminal Law

110XXIV Review

110XXIV(E) Presentation and
Reservation in Lower Court of Grounds
of Review

110XXIV(E)1 In General

110k1038 Instructions

110k1038.1 Objections in General

110k1038.1(3) Particular Instructions

110k1038.1(3.1) In general

Any error in trial court's instructions regarding jury unanimity in proceeding under Federal Death Penalty Act, which allegedly led jury to erroneous belief that it did not have to unanimously recommend lesser sentence if it declined to recommend sentence of death or life imprisonment without release, did not affect defendant's substantial rights, and thus could not provide basis for relief under plain error standard of review, where any confusion was allayed by

court's admonition that jury should not concern itself with effect of such a recommendation, and nothing indicated that any confusion worked to defendant's detriment. 18 U.S.C.A. § 3591 et seq.; Fed.Rules Cr.Proc.Rule 52(b), 18 U.S.C.A.

55 Cases that cite this headnote

[32] **Criminal Law**

🔑 Custody and conduct of jury

110 Criminal Law

110XXIV Review

110XXIV(M) Presumptions

110k1144 Facts or Proceedings Not Shown by Record

110k1144.15 Custody and conduct of jury

Jurors are presumed to have followed instructions.

28 Cases that cite this headnote

[33] **Criminal Law**

🔑 Necessity of Objections in General

110 Criminal Law

110XXIV Review

110XXIV(E) Presentation and

Reservation in Lower Court of Grounds of Review

110XXIV(E)1 In General

110k1030 Necessity of Objections in General

110k1030(1) In general

Where it is uncertain whether effect of alleged error actually worked to detriment of defendant, defendant cannot meet burden of showing that the error actually affected his substantial rights, as required to obtain relief under plain error standard. Fed.Rules Cr.Proc.Rule 52(b), 28 U.S.C.A.

66 Cases that cite this headnote

[34] **Sentencing and Punishment**

🔑 Dual use of evidence or aggravating factor

Sentencing and Punishment

🔑 Vulnerability

Sentencing and Punishment

🔑 Victim's family status

350H Sentencing and Punishment

350HVIII The Death Penalty

350HVIII(C) Factors Affecting

Imposition in General

350Hk1660 Dual use of evidence or aggravating factor

(Formerly 110k1213.8(8),

110k1208.1(5))

350H Sentencing and Punishment

350HVIII The Death Penalty

350HVIII(F) Factors Related to Status of Victim

350Hk1726 Vulnerability

(Formerly 110k1213.8(8),

110k1208.1(5))

350H Sentencing and Punishment

350HVIII The Death Penalty

350HVIII(F) Factors Related to Status of Victim

350Hk1734 Victim's family status

(Formerly 110k1213.8(8),

110k1208.1(5))

Nonstatutory aggravating factors setting forth victim impact evidence, and victim vulnerability evidence, which were considered and found by jury in prosecution under Federal Death Penalty Act, were not impermissibly vague, overbroad, and duplicative, as would violate Eighth Amendment's prohibition on cruel and unusual punishment. (Per Justice Thomas, with three Justices concurring.) U.S.C.A. Const.Amend. 8; 18 U.S.C.A. § 3591 et seq.

76 Cases that cite this headnote

[35] **Sentencing and Punishment**

🔑 Harmless and reversible error

350H Sentencing and Punishment

350HVIII The Death Penalty

350HVIII(G) Proceedings

350HVIII(G)4 Determination and Disposition

350Hk1788 Review of Death Sentence

350Hk1788(10) Harmless and reversible error

(Formerly 110k1177)

Any error in allowing jury to consider allegedly vague, overbroad, and duplicative nonstatutory aggravating factors of victim impact evidence, and victim vulnerability evidence, during sentencing hearing in proceeding under Federal Death Penalty Act was harmless; had factors been clearly defined, jury surely would have reached the same recommendation, and Government's argument to jury cured nonstatutory factors of any infirmity as written. U.S.C.A. Const.Amend. 8; 18 U.S.C.A. § 3591 et seq.

87 Cases that cite this headnote

[36] **Sentencing and Punishment**

🔑 Harmless and reversible error

350H Sentencing and Punishment

350HVIII The Death Penalty

350HVIII(G) Proceedings

350HVIII(G)4 Determination and Disposition

350Hk1788 Review of Death Sentence

350Hk1788(10) Harmless and reversible error

(Formerly 110k1177)

Harmless error review of a death sentence imposed after invalid aggravating factor was considered may be performed in at least two different ways: appellate court may choose to consider whether, absent an invalid factor, the jury would have reached the same verdict, or it may choose instead to consider whether the result would have been the same had the invalid aggravating factor been precisely defined.

48 Cases that cite this headnote

****2094 *373 Syllabus***

*

The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

Petitioner was sentenced to death for the crime of kidnaping resulting in the victim's death. Petitioner's sentence was imposed pursuant to the Federal Death Penalty Act of 1994, 18 U.S.C. § 3591 et seq. At the sentencing hearing, the District Court instructed the jury and provided it with four decision forms on which to record its sentencing recommendation. The court refused petitioner's request to instruct the jury as to the consequences of jury deadlock. The jury unanimously recommended that petitioner be sentenced to death. The District Court imposed sentence in accordance with the jury's recommendation, and the Fifth Circuit affirmed.

Held: The judgment is affirmed.

132 F.3d 232, affirmed.

Justice THOMAS delivered the opinion of the Court with respect to Parts I, II, and III–B, concluding:

1. The Eighth Amendment does not require that a jury be instructed as to the consequences of their failure to agree. Pp. 2097–2100.

(a) As petitioner argues, the Federal Death Penalty Act requires judge sentencing when the jury, after retiring for deliberations, reports itself as unable to reach a unanimous verdict. In such a case, the sentencing duty falls upon the District Court pursuant to 18 U.S.C. § 3594. Pp. 2097–2098.

(b) The Eighth Amendment, however, does not require that a jury be instructed as to the consequences of a breakdown in the deliberative process. Such an instruction has no bearing on the jury's role in the sentencing process. Moreover, the jury system's very object is to secure unanimity, and

the Government has a strong interest in having the jury express the conscience of the community on the ultimate life or death question. A charge of the sort petitioner suggests might well undermine this strong governmental interest. In addition, Congress chose not to require such an instruction be given. The Court declines to invoke its supervisory powers over the federal courts and require that such an instruction be given in every capital case in these circumstances. Pp. 2098–2100.

****2095** 2. There is no reasonable likelihood that the jury was led to believe that petitioner would receive a court-imposed sentence less than life ***374** imprisonment in the event they could not recommend unanimously a sentence of death or life imprisonment without the possibility of release. Pp. 2100–2105.

(a) Petitioner claims that the instruction pertaining to the jury's sentencing recommendation, in combination with the Decision Forms, led to confusion warranting reversal of his sentence under the Due Process Clause, the Eighth Amendment, and the Act. Because petitioner did not voice the objections that he now raises before the jury retired, see Fed. Rule Crim. Proc. 30, his claim of error is subject to a limited appellate review for plain error, e.g., Johnson v. United States, 520 U.S. 461, 465–466, 117 S.Ct. 1544, 137 L.Ed.2d 718. Pp. 2100–2102.

(b) Under that review, relief is not warranted unless there has been (1) error, (2) that is plain, and (3) affects substantial rights. Petitioner's argument falls short of satisfying even the first requirement, for no error occurred. The proper standard for reviewing claims that allegedly ambiguous instructions caused jury confusion is whether there is a reasonable likelihood that the jury applied the challenged instruction in a way that violates the Constitution. There is no such likelihood here. The District Court gave no explicit instructions on the consequences of nonunanimity; and the passages that petitioner argues led to jury confusion, when viewed in the context of the entire instructions, lack any ambiguity. Nor did the Decision Forms or their accompanying instructions create a reasonable likelihood of confusion over the

effect of nonunanimity. The District Court's explicit instruction that the jury had to be unanimous and its exhortation to the jury to discuss the punishment and to attempt to reach agreement make it doubtful that the jury thought it was compelled to recommend a lesser sentence in the event of a disagreement. Even assuming, *arguendo*, that a plain error occurred, petitioner cannot show that it affected his substantial rights. The District Court admonished the jury not to concern itself with the effect of a lesser sentence recommendation. Moreover, assuming that the jurors were confused over the consequences of deadlock, petitioner cannot show the confusion necessarily worked to his detriment. It is just as likely that the jurors, loathe to recommend a lesser sentence, would have compromised on a life imprisonment sentence as on a death sentence. Cf. Romano v. Oklahoma, 512 U.S. 1, 14, 114 S.Ct. 2004, 129 L.Ed.2d 1. Pp. 2102–2105.

3. Assuming, *arguendo*, that the District Court erred in allowing the jury to consider nonstatutory aggravating factors that were vague, overbroad, or duplicative in violation of the Eighth Amendment, such error was harmless beyond a reasonable doubt. An appellate court may conduct harmless-error review by considering either whether absent an invalid factor, the jury would have reached the same verdict or whether the result would have been the same had the invalid aggravating ***375** factor been precisely defined. See Clemons v. Mississippi, 494 U.S. 738, 753–754, 110 S.Ct. 1441, 108 L.Ed.2d 725. The Fifth Circuit performed the first sort of analysis, and its explanation appears sufficient. Even if its analysis was too perfunctory, it is plain, under the alternative mode of harmless-error analysis, that the error indeed was harmless. Had the nonstatutory aggravating factors been precisely defined in writing, the jury would have reached the same recommendation as it did. The Government's argument to the jury cured the factors of any infirmity as written. Pp. 2108–2110.

THOMAS, J., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II, and III–B, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, and KENNEDY, JJ., joined, and an opinion with

respect to Part III–A, in which REHNQUIST, C. J., and O'CONNOR and KENNEDY, JJ., joined. GINSBURG, J., filed a dissenting opinion, in which STEVENS and SOUTER, JJ., joined, and in which BREYER, J., joined as to Parts I, II, III, and V, *post*, p. 2110.

Attorneys and Law Firms

Timothy Crooks, Fort Worth, TX, for petitioner.

****2096** Michael R. Dreeben, Washington, DC, for respondent.

Opinion

Justice THOMAS delivered the opinion of the Court, except as to Part III–A.[†]

[†] Justice SCALIA joins all but Part III–A of the opinion.

Petitioner was sentenced to death for committing a kidnaping resulting in death to the victim. His sentence was imposed under the Federal Death Penalty Act of 1994, 18 U.S.C. § 3591 *et seq.* (1994 ed. and Supp. III). We are presented with three questions: whether petitioner was entitled to an instruction as to the effect of jury deadlock; whether there is a reasonable likelihood that the jury was led to believe that petitioner would receive a court-imposed sentence *376 less than life imprisonment in the event that they could not reach a unanimous sentence recommendation; and whether the submission to the jury of two allegedly duplicative, vague, and overbroad nonstatutory aggravating factors was harmless error. We answer “no” to the first two questions. As for the third, we are of the view that there was no error in allowing the jury to consider the challenged factors. Assuming error, *arguendo*, we think it clear that such error was harmless.

I

Petitioner Louis Jones, Jr., kidnaped Private Tracie Joy McBride at gunpoint from the Goodfellow Air Force Base in San Angelo, Texas. He brought her to his house and sexually assaulted her. Soon

thereafter, petitioner drove Private McBride to a bridge just outside of San Angelo, where he repeatedly struck her in the head with a tire iron until she died. Petitioner administered blows of such severe force that, when the victim's body was found, the medical examiners observed that large pieces of her skull had been driven into her cranial cavity or were missing.

The Government charged petitioner with, *inter alia*, kidnaping with death resulting to the victim, in violation of 18 U.S.C. § 1201(a)(2), an offense punishable by life imprisonment or death. Exercising its discretion under the Federal Death Penalty Act of 1994, 18 U.S.C. § 3591 *et seq.*, the Government decided to seek the latter sentencing option. Petitioner was tried in the District Court for the Northern District of Texas and found guilty by the jury.

The District Court then conducted a separate sentencing hearing pursuant to § 3593. As an initial matter, the sentencing jury was required to find that petitioner had the requisite intent, see § 3591(a)(2); it concluded that petitioner intentionally killed his victim and intentionally inflicted serious bodily injury resulting in her death. Even on a finding of intent, however, a defendant is not death eligible unless the sentencing jury also finds that the Government *377 has proved beyond a reasonable doubt at least one of the statutory aggravating factors set forth at § 3592. See § 3593(e). Because petitioner was charged with committing a homicide, the Government had to prove 1 of the 16 statutory aggravating factors set forth at 18 U.S.C. § 3592(c) (1994 ed. and Supp. III) (different statutory aggravating factors for other crimes punishable by death are set forth at §§ 3592(b), (d)). The jury unanimously found that two such factors had been proved beyond a reasonable doubt—it agreed that petitioner caused the death of his victim during the commission of another crime, see § 3592(c)(1), and that he committed the offense in an especially heinous, cruel, and depraved manner, see § 3592(c)(6).¹

¹ As phrased on the Special Findings Form returned by the jury, the statutory aggravating factors read:

“2(A). The defendant LOUIS JONES caused the death of Tracie Joy McBride, or injury resulting in the death of Tracie Joy McBride, which occurred during the commission of the offense of Kidnapping.”

“2(C). The defendant LOUIS JONES committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture or serious physical abuse to Tracie Joy McBride.” App. 51–52.

****2097** Once petitioner became death eligible, the jury had to decide whether he should receive a death sentence. In making the selection decision, the Act requires that the sentencing jury consider all of the aggravating and mitigating factors and determine whether the former outweigh the latter (or, if there are no mitigating factors, whether the aggravating factors alone are sufficient to warrant a death sentence). §§ 3591(a), 3592, 3593(e). The Act, however, requires more exacting proof of aggravating factors than mitigating ones—although a jury must unanimously agree that the Government established the existence of an aggravating factor beyond a reasonable doubt, § 3593(c), the jury may consider a mitigating factor in its weighing process so long as one juror finds that the defendant established its existence by preponderance of the evidence, §§ 3593(c), (d). In addition to the ***378** two statutory aggravators that established petitioner's death eligibility, the jury also unanimously found two aggravators of the nonstatutory variety² had been proved: One set forth victim impact evidence and the other victim vulnerability evidence.³ As for mitigating factors, at least one juror found 10 of the 11 that petitioner proposed and seven jurors wrote in a factor petitioner had not raised on the Special Findings Form.⁴

² The term “nonstatutory aggravating factor” is used to refer to any aggravating factor that is not specifically described in 18 U.S.C. § 3592. Section 3592(c) provides that the jury

may consider “whether any other aggravating factor for which notice has been given exists.” Pursuant to § 3593(a), when the Government decides to seek the death penalty, it must provide notice of the aggravating factors that it proposes to prove as justifying a sentence of death.

3

As phrased on the Special Findings Form, the nonstatutory aggravating factors read:

“3(B). Tracie Joy McBride's young age, her slight stature, her background, and her unfamiliarity with San Angelo, Texas.

“3(C). Tracie Joy McBride's personal characteristics and the effect of the instant offense on Tracie Joy McBride's family constitute an aggravating factor of the offense.” App. 53.

4

The mitigating factors that the jury found as set forth on the Special Findings Form (along with the number of jurors that found for each factor in brackets) are as follows:

“1. That the defendant Louis Jones did not have a significant prior criminal record.” [6]

“2. That the defendant Louis Jones' capacity to appreciate the wrongfulness of the defendant's conduct or to conform to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.” [2]

“3. That the defendant Louis Jones committed the offense under severe mental or emotional disturbance.” [1]

“4. That the defendant Louis Jones was subjected to physical, sexual, and emotional abuse as a child (and was deprived of sufficient parental protection that he needed).” [4]

“5. That the defendant Louis Jones served his country well in Desert Storm, Grenada, and for 22 years in the United States Army.” [8]

“6. That the defendant Louis Jones is likely to be a well-behaved inmate.” [3]

“7. That the defendant Louis Jones is remorseful for the crime he committed.” [4]

“8. That the defendant Louis Jones' daughter will be harmed by the emotional trauma of her father's execution.” [9]

“9. That the defendant Louis Jones was under unusual and substantial internally

generated duress and stress at the time of the offense.” [3]

“10. That the defendant Louis Jones suffered from numerous neurological or psychological disorders at the time of the offense.” [1] *Id.*, at 54–56.

Seven jurors added petitioner's ex-wife as a mitigating factor without further elaboration. *Id.*, at 56.

***379** After weighing the aggravating and mitigating factors, the jury unanimously recommended that petitioner be sentenced to death. App. 57–58. The District Court imposed sentence in accordance with the jury's recommendation pursuant to § 3594. The United States Court of Appeals for the Fifth Circuit affirmed the sentence. 132 F.3d 232 (1998). We granted certiorari, 525 U.S. 809, 119 S.Ct. 39, 142 L.Ed.2d 31 (1998), and now affirm.

II

A

We first decide the question whether petitioner was entitled to an instruction as to the consequences of jury deadlock. Petitioner requested, in relevant part, the following instruction:

“In the event, after due deliberation and reflection, the jury is unable to agree on a unanimous decision as to the sentence to be imposed, you should so advise me and I ****2098** will impose a sentence of life imprisonment without possibility of release....

“In the event you are unable to agree on [a sentence of] Life Without Possibility of Release or Death, but you are unanimous that the sentence should not be less than Life Without Possibility of Release, you should report that vote to the Court and the Court will sentence the defendant to Life Without the Possibility of Release.” App. 14–15.

***380** In petitioner's view, the Eighth Amendment requires that the jurors be instructed as to the effect of their inability to agree. He alternatively argues that we should invoke our supervisory power

over the federal courts and require that such an instruction be given.

[1] Before we turn to petitioner's Eighth Amendment argument, a question of statutory interpretation calls for our attention. The Fifth Circuit held that the District Court did not err in refusing petitioner's requested instruction because it was not substantively correct. See 132 F.3d, at 242–243. According to the Court of Appeals, § 3593(b)(2)(C), which provides that a new jury shall be impaneled for a new sentencing hearing if the guilt phase jury is discharged for “good cause,” requires the District Court to impanel a second jury and hold a second sentencing hearing in the event of jury deadlock. *Id.*, at 243. The Government interprets the statute the same way (although its reading is more nuanced) and urges that the judgment below be affirmed on this ground.

[2] Petitioner, however, reads the Act differently. In his view, whenever the jury reaches a result other than a unanimous verdict recommending a death sentence or life imprisonment without the possibility of release, the duty of sentencing falls upon the district court pursuant to § 3594, which reads:

“Upon a recommendation under section 3593(e) that the defendant should be sentenced to death or life imprisonment without possibility of release, the court shall sentence the defendant accordingly. Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without possibility of release.”

***381** Petitioner's argument is based on his construction of the term “[o]therwise.” He argues that this term means that when the jury, after

retiring for deliberations, reports itself as unable to reach a unanimous verdict, the sentencing determination passes to the court.

[3] As the dissent also concludes, *post*, at 2116, petitioner's view of the statute is the better one. The phrase "good cause" in § 3593(b)(2)(C) plainly encompasses events such as juror disqualification, but cannot be read so expansively as to include the jury's failure to reach a unanimous decision. Nevertheless, the Eighth Amendment does not require that the jurors be instructed as to the consequences of their failure to agree.

[4] [5] [6] To be sure, we have said that the Eighth Amendment requires that a sentence of death not be imposed arbitrarily. See, e.g., *Buchanan v. Angelone*, 522 U.S. 269, 275, 118 S.Ct. 757, 139 L.Ed.2d 702 (1998). In order for a capital sentencing scheme to pass constitutional muster, it must perform a narrowing function with respect to the class of persons eligible for the death penalty and must also ensure that capital sentencing decisions rest upon an individualized inquiry. *Ibid*. The instruction that petitioner requested has no bearing on what we have called the "eligibility phase" of the capital sentencing process. As for what we have called the "selection phase," our cases have held that in order to satisfy the requirement that capital sentencing decisions rest upon an individualized inquiry, a scheme must allow a "broad inquiry" into all "constitutionally relevant mitigating evidence." *Id.*, at 276, 118 S.Ct. 757. Petitioner does not argue, nor could he, that the District Court's failure to give the requested instruction prevented the jury from considering such evidence.

[7] [8] [9] [10] [11] In theory, the District Court's failure to instruct the jury as to the consequences of deadlock could give rise to an Eighth Amendment problem of a different sort: We also have held that a jury cannot be "affirmatively misled regarding its role in the sentencing process." *Romano v. Oklahoma*, 512 U.S. 1, 9, 114 S.Ct. 2004, 129 L.Ed.2d 1 (1994). In no way, however, was the jury affirmatively misled by the District Court's refusal to give petitioner's proposed instruction. The truth of the

matter is that the proposed instruction has no bearing on the jury's role in the sentencing process. Rather, it speaks to what happens in the event that the jury is unable to fulfill its role—when deliberations break down and the jury is unable to produce a unanimous sentence recommendation. Petitioner's argument, although less than clear, appears to be that a death sentence is arbitrary within the meaning of the Eighth Amendment if the jury is not given any bit of information that might possibly influence an individual juror's voting behavior. That contention has no merit. We have never suggested, for example, that the Eighth Amendment requires a jury be instructed as to the consequences of a breakdown in the deliberative process. On the contrary, we have long been of the view that "[t]he very object of the jury system is to secure unanimity by a comparison of views, and by arguments among the jurors themselves." *Allen v. United States*, 164 U.S. 492, 501, 17 S.Ct. 154, 41 L.Ed. 528 (1896).⁵ We further have recognized that in a capital sentencing proceeding, the Government has "a strong interest in having the jury express the conscience of the community on the ultimate question of life or death." *Lowenfield v. Phelps*, 484 U.S. 231, 238, 108 S.Ct. 546, 98 L.Ed.2d 568 (1988) (citation and internal quotation marks omitted). We are of the view that a charge to the jury of the sort proposed by petitioner might well have the effect of undermining this strong governmental interest.⁶

⁵ We have thus approved of the use of a supplemental charge to encourage a jury reporting itself as deadlocked to engage in further deliberations, see *Allen v. United States*, 164 U.S., at 501, 17 S.Ct. 154, even capital sentencing juries, see *Lowenfield v. Phelps*, 484 U.S. 231, 237–241, 108 S.Ct. 546, 98 L.Ed.2d 568 (1988).

⁶ It is not insignificant that the Courts of Appeals to have addressed this question, as far as we are aware, are uniform in rejecting the argument that the Constitution requires an instruction as to the consequences of a jury's inability to agree. See, e.g., *Coe v. Bell*, 161 F.3d 320, 339–340 (C.A.6 1998); *Green v. French*, 143 F.3d 865, 890 (C.A.4 1998); *United States v. Chandler*, 996 F.2d 1073, 1088–1089

(C.A.11 1993); *Evans v. Thompson*, 881 F.2d 117, 123–124 (C.A.4 1989). Indeed, the Fifth Circuit, in the alternative, reached the same conclusion in this very case. See *132 F.3d 232*, 245 (1998).

[12] *383 We similarly decline to exercise our supervisory powers to require that an instruction on the consequences of deadlock be given in every capital case. In drafting the Act, Congress chose not to require such an instruction. Cf. § 3593(f) (district court “shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be”). Petitioner does point us to a decision from the New Jersey Supreme Court requiring, in an exercise of that court's supervisory authority, that the jury be informed of the sentencing consequences of nonunanimity. See *New Jersey v. Ramsey*, 106 N.J. 123, 304–315, 524 A.2d 188, 280–286 (1987). Of course, New Jersey's practice has no more relevance to our decision than the power to persuade. Several other States have declined to require a similar instruction. See, e.g., *North Carolina v. McCarver*, 341 N.C. 364, 394, 462 S.E.2d 25, 42 (1995); *Brogie v. Oklahoma*, 695 P.2d 538, 547 (Okla.Crim.App.1985); *Calhoun v. Maryland*, 297 Md. 563, 593–595, 468 A.2d 45, 58–60 (1983); *Coulter v. Alabama*, 438 So.2d 336, 346 (Ala.Crim.App.1982); *Justus v. Virginia*, 220 Va. 971, 979, 266 S.E.2d 87, 92–93 (1980). We find the reasoning of the Virginia Supreme Court in *Justus* far more persuasive than that of the New Jersey Supreme Court, especially in light of the strong governmental interest that we have recognized in having the jury render a unanimous sentence recommendation:

****2100** *384 “The court properly refused an instruction offered by the defendant which would have told the jury that if it could not reach agreement as to the appropriate punishment, the court would dismiss it and impose a life sentence. While this was a correct statement of law it concerned a procedural matter and was

not one which should have been the subject of an instruction. It would have been an open invitation for the jury to avoid its responsibility and to disagree.” *Id.*, at 979, 266 S.E.2d, at 92.

In light of the legitimate reasons for not instructing the jury as to the consequences of deadlock, and in light of congressional silence, we will not exercise our supervisory powers to require that an instruction of the sort petitioner sought be given in every case. Cf. *Shannon v. United States*, 512 U.S. 573, 587, 114 S.Ct. 2419, 129 L.Ed.2d 459 (1994).

B

Petitioner further argues that the jury was led to believe that if it could not reach a unanimous sentence recommendation he would receive a judge-imposed sentence less severe than life imprisonment, and his proposed instruction as to the consequences of deadlock was necessary to correct the jury's erroneous impression. Moreover, he contends that the alleged confusion independently warrants reversal of his sentence under the Due Process Clause, the Eighth Amendment, and the Act itself. He grounds his due process claim in the assertion that sentences may not be based on materially untrue assumptions, his Eighth Amendment claim in his contention that the jury is entitled to accurate sentencing information, and his statutory claim in an argument that jury confusion over the available sentencing options constitutes an “arbitrary factor” under § 3595(c)(2) (A).

To put petitioner's claim in the proper context, we must briefly review the jury instructions and sentencing procedures *385 used at trial. After instructing the jury on the aggravating and mitigating factors and explaining the process of weighing those factors, the District Court gave the following instructions pertaining to the jury's sentencing recommendation:

“Based upon this consideration, you the jury, by unanimous vote, shall recommend whether the defendant should be sentenced to death, sentenced to life imprisonment without the

possibility of release, or sentenced to some other lesser sentence.

“If you unanimously conclude that the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, that the aggravating factors are themselves sufficient to justify a sentence of death, you may recommend a sentence of death. Keep in mind, however, that regardless of your findings with respect to aggravating and mitigating factors, you are never required to recommend a death sentence.

“If you recommend the imposition of a death sentence, the court is required to impose that sentence. If you recommend a sentence of life without the possibility of release, the court is required to impose that sentence. If you recommend that some other lesser sentence be imposed, the court is required to impose a sentence that is authorized by the law. In deciding what recommendation to make, you are not to be concerned with the question of what sentence the defendant might receive in the event you determine not to recommend a death sentence or a sentence of life without the possibility of release. That is a matter for the court to decide in the event you conclude that a sentence of death or life without the possibility of release should not be recommended.” App. 43–44.

386** The District Court also provided the jury with four decision forms on which to record its recommendation.⁷ In its instructions *2101** explaining those forms, the District Court told the jury that its choice of form depended on its recommendation:

⁷ The decision forms read as follows:

“DECISION FORM A

“We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of the required intent on the part of the defendant or a required aggravating factor.”

“DECISION FORM B

“Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that a sentence of death be imposed.”

“DECISION FORM C

“We the jury recommend, by unanimous verdict, a sentence of life imprisonment without the possibility of release.”

“DECISION FORM D

“We the jury recommend some other lesser sentence.” App. 57–59.

“The forms are self-explanatory: Decision Form A should be used if you determine that a sentence of death should not be imposed because the government failed to prove beyond a reasonable doubt the existence of the required intent on the part of the defendant or a required aggravating factor. Decision Form B should be used if you unanimously recommend that a sentence of death should be imposed. Decision Form C or Decision Form D should be used if you determine that a sentence of death should not be imposed because: (1) you do not unanimously find that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist; (2) you do not unanimously find that the aggravating factor or factors found to exist are ***387** themselves sufficient to justify a sentence of death where no mitigating factor has been found to exist; or (3) regardless of your findings with respect to aggravating and mitigating factors you are not unanimous in recommending that a sentence of death should be imposed. Decision Form C should be used if you unanimously recommend that a sentence of imprisonment for life without the possibility of release should be imposed.

“Decision Form D should be used if you recommend that some other lesser sentence should be imposed.” *Id.*, at 47–48.

[13] [14] [15] [16] Petitioner maintains that the instructions in combination with the decision forms led the jury to believe that if it failed to recommend unanimously a sentence of death or

life imprisonment without the possibility of release, then it would be required to use Decision Form D and the court would impose a sentence less than life imprisonment.⁸ The scope of our review is shaped by whether petitioner properly raised and preserved an objection to the instructions at trial. A party generally may not assign error to a jury instruction if he fails to object before the jury retires or to “stat[e] distinctly the matter to which that party objects and the grounds of the objection.” Fed. Rule Crim. Proc. 30. These timeliness and specificity requirements apply during the sentencing phase as well as the trial. See 18 U.S.C. § 3595(c)(2)(C); see also Fed. Rules Crim. Proc. 1, 54(a). They enable a trial court to correct any instructional mistakes *388 before the jury retires and in that way help to avoid the burdens of an unnecessary retrial. While an objection in a directed verdict motion before the jury retires can preserve a claim of error, *Leary v. United States*, 395 U.S. 6, 32, 89 S.Ct. 1532, 23 L.Ed.2d 57 (1969), objections raised after the jury has completed its deliberations do not. See *Singer v. United States*, 380 U.S. 24, 38, 85 S.Ct. 783, 13 L.Ed.2d 630 (1965); *Lopez v. United States*, 373 U.S. 427, 436, 83 S.Ct. 1381, 10 L.Ed.2d 462 (1963); cf. *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 238–239, 60 S.Ct. 811, 84 L.Ed. 1129 (1940). Nor does a request for an instruction before the jury retires preserve an objection to the instruction actually given by the court. Otherwise, district judges would have to speculate on what sorts of objections might be implied through a request for an instruction and issue rulings on “implied” objections that a defendant never intends to raise. **2102 Such a rule would contradict Rule 30’s mandate that a party state distinctly his grounds for objection.

⁸ Petitioner does not argue that the District Court’s instructions on the lesser sentence option, standing alone, constituted reversible error although the parties agree that, after the jury found petitioner guilty of kidnapping resulting in death, the only possible sentences were death and a life sentence. See Brief for Petitioner 18–19; Brief for United States 13, n. 2; see also 18 U.S.C. § 1201. Petitioner made such an argument below; the Fifth Circuit, however, concluded that the instructions as to

the lesser sentence option did not rise to the level of plain error. 132 F.3d, at 246–248.

[17] [18] Petitioner did not voice the objections to the instructions and decision forms that he now raises before the jury retired. See App. 16–33. While Rule 30 could be read literally to bar any review of petitioner’s claim of error, our decisions instead have held that an appellate court may conduct a limited review for plain error. Fed. Rule Crim. Proc. 52(b); *Johnson v. United States*, 520 U.S. 461, 465–466, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997); *United States v. Olano*, 507 U.S. 725, 731–732, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993); *Lopez, supra*, at 436–437, 83 S.Ct. 1381; *Namet v. United States*, 373 U.S. 179, 190–191, 83 S.Ct. 1151, 10 L.Ed.2d 278 (1963). Petitioner, however, contends that the Federal Death Penalty Act creates an exception. He relies on language in the Act providing that an appellate court shall remand a case where it finds that “the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor.” § 3595(c)(2)(A). According to petitioner, the alleged jury confusion over the available sentencing options is an arbitrary factor and thus warrants resentencing even if he did not properly preserve the objection.

[19] [20] This argument rests on an untenable reading of the Act. The statute does not explicitly announce an exception to *389 plain-error review, and a congressional intent to create such an exception cannot be inferred from the overall scheme. Statutory language must be read in context and a phrase “gathers meaning from the words around it.” *Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307, 81 S.Ct. 1579, 6 L.Ed.2d 859 (1961); see also *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575, 115 S.Ct. 1061, 131 L.Ed.2d 1 (1995). Here, the same subsection that petitioner relies upon further provides that reversal is warranted where “the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for appeal under the rules of criminal procedure.” § 3595(c)(2)(C). This language makes clear that Congress sought to impose a timely objection requirement at sentencing and did not intend to equate the phrase “arbitrary factor” with legal error. Petitioner’s broad interpretation of §

3595(c)(2)(A) would drain § 3595(c)(2)(C) of any independent meaning. 9

[21] [22] [23] We review the instructions, then, for plain error. Under that review, relief is not warranted unless there has been (1) error, (2) that is plain, and (3) affects substantial rights. *Johnson, supra*, at 467, 117 S.Ct. 1544; *Olano, supra*, at 732, 113 S.Ct. 1770. Appellate review under the plain-error doctrine, of course, is circumscribed and we exercise our power under Rule 52(b) sparingly. See *United States v. Young*, 470 U.S. 1, 15, 105 S.Ct. 1038, 84 L.Ed.2d 1 (1985); *United States v. Frady*, 456 U.S. 152, 163, and n. 14, 102 S.Ct. 1584, 71 L.Ed.2d 816 (1982); cf. *Henderson v. Kibbe*, 431 U.S. 145, 154, 97 S.Ct. 1730, 52 L.Ed.2d 203 (1977) (“It is the rare case in which an improper instruction will justify reversal of a criminal conviction when no objection has been made in the trial court”). An appellate court should exercise its discretion to correct plain error only if it “seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings.” *Olano, supra*, at 732, 113 S.Ct. 1770 (internal quotation marks omitted); *Young, supra*, at 15, 105 S.Ct. 1038; *United States v. Atkinson*, 297 U.S. 157, 160, 56 S.Ct. 391, 80 L.Ed. 555 (1936).

[24] [25] Petitioner's argument—which depends on the premise that the instructions and decision forms led the jury to believe that it did not have to recommend unanimously a lesser *390 sentence—falls short of satisfying even the first requirement of the plain-error doctrine, for we cannot see that any error occurred. We have considered similar claims that allegedly ambiguous instructions caused jury confusion. See, e.g., *Victor v. Nebraska*, 511 U.S. 1, 114 S.Ct. 1239, 127 L.Ed.2d 583 (1994); *Estelle v. McGuire*, 502 U.S. 62, 112 S.Ct. 475, 116 L.Ed.2d 385 (1991); *Boyde v. California*, 494 U.S. 370, 110 S.Ct. 1190, 108 L.Ed.2d 316 (1990). The proper standard for reviewing such claims is “‘whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way’ that violates **2103 the Constitution.” *Estelle, supra*, at 72, 112 S.Ct. 475 (quoting *Boyde, supra*, at 380, 110 S.Ct. 1190); see also *Victor, supra*, at 6, 114 S.Ct. 1239 (applying reasonable likelihood standard to direct review of state criminal conviction).⁹

Petitioner concedes that the *Boyde* standard applies to the extent that he is advancing a constitutional claim, but relying on our prior decision in *Andres v. United States*, 333 U.S. 740, 752, 68 S.Ct. 880, 92 L.Ed. 1055 (1948), he contends that a more lenient standard applies to the extent that he seeks relief under the statute directly. Our decisions in *Boyde* and *Estelle*, however, foreclose that reading of *Andres*. In *Boyde* we noted that our prior decisions, including *Andres*, had been “less than clear” in articulating a single workable standard for evaluating claims that an instruction prevented the jury's consideration of constitutionally relevant evidence. 494 U.S., at 378, 110 S.Ct. 1190. In order to supply “a single formulation for this Court and other courts to employ in deciding this kind of federal question,” we announced the “reasonable likelihood” standard. *Id.*, at 379, 110 S.Ct. 1190. We made this same point later in *Estelle*, noting that “[i]n *Boyde* ... we made it a point to settle on a single standard of review for jury instructions—the ‘reasonable likelihood’ standard—after considering the many different phrasings that had previously been used by this Court.” 502 U.S., at 72–73, n. 4, 112 S.Ct. 475.

There is no reasonable likelihood that the jury applied the instructions incorrectly. The District Court did not expressly inform the jury that it would impose a lesser sentence in case of deadlock. It simply told the jury that, if it recommended a lesser sentence, the court would impose a sentence “authorized by the law.” App. 44. Nor did the District Court expressly require the jury to select Decision Form D if it could not reach agreement. Instead, it exhorted the jury “to discuss the issue of punishment with one *391 another in an effort to reach agreement, if you can do so.” *Id.*, at 46.

Notwithstanding the absence of an explicit instruction on the consequences of nonunanimity, petitioner identifies several passages which, he believes, support the inference that the jury was confused on this point. He trains on that portion of the instructions telling the jurors that the court would decide the sentence if they did not recommend a sentence of death or life without the possibility of release. Petitioner argues that this statement, coupled with two earlier references to

a “lesser sentence” option, caused the jurors to infer that the District Court would impose a lesser sentence if they could not unanimously agree on a sentence of death or life without the possibility of release. He maintains that this inference is strengthened by a later instruction: “In order to bring back a verdict recommending the punishment of death or life without the possibility of release, all twelve of you must unanimously vote in favor of such specific penalty.” *Id.*, at 45. According to petitioner, the failure to mention the “lesser sentence” option in this statement strongly implied that, in contradistinction to the first two options, the “lesser sentence” option did not require jury unanimity.

[26] [27] Petitioner parses these passages too finely. Our decisions repeatedly have cautioned that instructions must be evaluated not in isolation but in the context of the entire charge. See, e.g., *Bryan v. United States*, 524 U.S. 184, 199, 118 S.Ct. 1939, 141 L.Ed.2d 197 (1998); *United States v. Park*, 421 U.S. 658, 674, 95 S.Ct. 1903, 44 L.Ed.2d 489 (1975); *Cupp v. Naughten*, 414 U.S. 141, 147, 94 S.Ct. 396, 38 L.Ed.2d 368 (1973); *Boyd v. United States*, 271 U.S. 104, 107, 46 S.Ct. 442, 70 L.Ed. 857 (1926). We agree with the Fifth Circuit that when these passages are viewed in the context of the entire instructions, they lack ambiguity and cannot be given the reading that petitioner advances. See 132 F.3d, at 244. We previously have held that instructions that might be ambiguous in the abstract can be cured when read in conjunction with other instructions. *Bryan*, *supra*, at 199, 118 S.Ct. 1939; *Victor*, *392 *supra*, at 14–15, 114 S.Ct. 1239; *Estelle*, *supra*, at 74–75, 112 S.Ct. 475. Petitioner's claim is far weaker than those we evaluated in *Bryan*, *Victor*, and *Estelle* because the jury in this case received an explicit instruction that it had to be unanimous. Just prior to its admonition that the jury should not concern itself with the ultimate sentence if it does not recommend death or life without the possibility of release, the trial court expressly instructed the jury in unambiguous language that any sentencing recommendation had to be by a unanimous vote. Specifically, it stated that “you the jury, by unanimous vote, **2104 shall recommend whether the defendant should be sentenced to death, sentenced to life

imprisonment without the possibility of release, or sentenced to some other lesser sentence.” App. 43. Other instructions, by contrast, specified when the jury did not have to act unanimously. For example, the District Court explicitly told the jury that its findings on the mitigating circumstances, unlike those on the aggravating circumstances, did not have to be unanimous.¹⁰ To be sure, the District Court could have used the phrase “unanimously” more frequently. But when read alongside an unambiguous charge that any sentencing recommendation be unanimous and other instructions explicitly identifying when the jury need not be unanimous, the passages identified by petitioner do not create a reasonable likelihood that the jury believed that deadlock would cause the District Court to impose a lesser sentence.

¹⁰ The relevant portion of the instruction read: “You will also recall that I previously told you that all twelve of you had to unanimously agree that a particular aggravating circumstance was proved beyond a reasonable doubt before you consider it. Quite the opposite is true with regard to mitigating factors. A finding with respect to a mitigating factor may be made by any one or more of the members of the jury, and any member who finds by a preponderance of the evidence the existence of a mitigating factor may consider such factor established for his or her weighing of aggravating and mitigating factors regardless of the number of other jurors who agree that such mitigating factor has been established.” App. 43.

[28] *393 Petitioner also relies on alleged ambiguities in the decision forms and the explanatory instructions. He stresses the fact that Decision Form D (lesser sentence recommendation), unlike Decision Forms B (death sentence) and C (life without the possibility of release), did not contain the phrase “by unanimous vote” and required only the foreperson's signature. These features of Decision Form D, according to petitioner, led the jury to conclude that nonunanimity would result in a lesser sentence. According to petitioner, the instructions accompanying Decision Form D, unlike those respecting Decision Forms B and C,

did not mention unanimity, thereby increasing the likelihood of confusion.

With respect to this aspect of petitioner's argument, we agree with the Fifth Circuit that "[a]lthough the verdict forms standing alone could have persuaded a jury to conclude that unanimity was not required for the lesser sentence option, any confusion created by the verdict forms was clarified when considered in light of the entire jury instruction." 132 F.3d, at 245. The District Court's explicit instruction that the jury had to be unanimous and its exhortation to the jury to discuss the punishment and attempt to reach agreement, App. 46, make it doubtful that the jury thought it was compelled to employ Decision Form D in the event of disagreement.

[29] [30] Petitioner also places too much weight on the fact that Decision Form D required only the foreperson's signature. Although it only contained a space for the foreperson's signature, Form D, like the others, used the phrase "We the jury recommend ...," thereby signaling that Form D represented the jury's recommendation. *Id.*, at 59. Moreover, elsewhere, the jury foreperson alone signed the jury forms to indicate the jury's unanimous agreement. Specifically, only the jury foreperson signed the special findings form on which the jury was required to indicate its unanimous agreement that an aggravating factor had been proved beyond a reasonable doubt. *Id.*, at 51–53. In these circumstances, we do ***394** not think that the decision forms or accompanying instructions created a reasonable likelihood of confusion over the effect of nonunanimity.¹¹

¹¹ Petitioner also urges us to take cognizance of two affidavits prepared after the jury had returned its sentencing recommendation. One affidavit, attached to petitioner's new trial motion, was executed by an investigator for the federal public defender after a juror had contacted the public defender's office. *Id.*, at 66–68, 112 S.Ct. 475. The other affidavit, attached to petitioner's motion to reconsider the District Court's order denying his motion for a new trial, was executed by one of the jurors. *Id.*, at 78–80, 112 S.Ct. 475. The Fifth Circuit ruled that petitioner could not rely on these affidavits to undermine

the jury's sentencing recommendation. 132 F.3d, at 245–246. Petitioner did not raise this independent determination in any of his questions presented, and we do not believe that the issue is fairly included within them. We therefore decline review of this ruling by the Fifth Circuit. See this Court's Rule 14.1(a); *Berkemer v. McCarty*, 468 U.S. 420, 443, n. 38, 104 S.Ct. 3138, 82 L.Ed.2d 317 (1984).

****2105** [31] [32] Even assuming, *arguendo*, that an error occurred (and that it was plain), petitioner cannot show that it affected his substantial rights. Any confusion among the jurors over the effect of a lesser sentence recommendation was allayed by the District Court's admonition that the jury should not concern itself with the effect of such a recommendation. See *supra*, at 2103 (quoting App. 44). The jurors are presumed to have followed these instructions. See *Shannon*, 512 U.S., at 585, 114 S.Ct. 2419; *Richardson v. Marsh*, 481 U.S. 200, 206, 107 S.Ct. 1702, 95 L.Ed.2d 176 (1987). Even if the jurors had some lingering doubts about the effect of deadlock, therefore, the instructions made clear that they should set aside their concerns and either report that they were unable to reach agreement or recommend a lesser sentence if they believed that this was the only option.

[33] Moreover, even assuming that the jurors were confused over the consequences of deadlock, petitioner cannot show the confusion necessarily worked to his detriment. It is just as likely that the jurors, loath to recommend a lesser sentence, would have compromised on a sentence of life imprisonment as on a death sentence. Where the effect of an alleged error ***395** is so uncertain, a defendant cannot meet his burden of showing that the error actually affected his substantial rights. Cf. *Romano*, 512 U.S., at 14, 114 S.Ct. 2004. In *Romano*, we considered a similar argument, namely, that jurors had disregarded a trial judge's instructions and given undue weight to certain evidence. In rejecting that argument, we noted that, even assuming that the jury disregarded the trial judge's instructions, "[i]t seems equally plausible that the evidence could have made the jurors more inclined to impose a death sentence, or it could have made them less inclined to do so." *Ibid.* Any speculation on the effect of a lesser sentence recommendation, like the evidence in *Romano*,

would have had such an indeterminate effect on the outcome of the proceeding that we cannot conclude that any alleged error in the District Court's instructions affected petitioner's substantial rights. See *Park*, 421 U.S., at 676, 95 S.Ct. 1903; *Lopez*, 373 U.S., at 436–437, 83 S.Ct. 1381.

III

A

[34] Apart from the claimed instructional error, petitioner argues that the nonstatutory aggravating factors found and considered by the jury, see n. 2, *supra*, were vague, overbroad, and duplicative in violation of the Eighth Amendment, and that the District Court's error in allowing the jury to consider them was not harmless beyond a reasonable doubt.

The Eighth Amendment, as the Court of Appeals correctly recognized, see 132 F.3d, at 250, permits capital sentencing juries to consider evidence relating to the victim's personal characteristics and the emotional impact of the murder on the victim's family in deciding whether an eligible defendant should receive a death sentence. See *Payne v. Tennessee*, 501 U.S. 808, 827, 111 S.Ct. 2597, 115 L.Ed.2d 720 (1991) (“A State may legitimately conclude that evidence about the victim and about the impact of the murder on the victim's family is relevant to the jury's decision as to whether or not the death penalty should be imposed. *396 There is no reason to treat such evidence differently than other relevant evidence is treated”). Petitioner does not dispute that, as a general matter, such evidence is appropriate for the sentencing jury's consideration. See Reply Brief for Petitioner 15. His objection is that the two nonstatutory aggravating factors were duplicative, vague, and overbroad so as to render their use in this case unconstitutional, a point with which the Fifth Circuit agreed, 132 F.3d, at 250–251, although it ultimately ruled in the Government's favor on the ground that the alleged error was harmless beyond a reasonable doubt, *id.*, at 251–252.

The Government here renews its argument that the nonstatutory aggravators in this case were constitutionally valid. At oral argument, however, it was suggested that this **2106 case comes to us on the assumption that the nonstatutory aggravating factors were invalid because the Government did not cross-appeal on the question. Tr. of Oral Arg. 25. As the prevailing party, the Government is entitled to defend the judgment on any ground that it properly raised below. See, e.g., *El Paso Natural Gas Co. v. Neztosie*, 526 U.S. 473, 479, 119 S.Ct. 1430, 1434–1435, 143 L.Ed.2d 635 (1999); *Northwest Airlines, Inc. v. County of Kent*, 510 U.S. 355, 364, 114 S.Ct. 855, 127 L.Ed.2d 183 (1994) (“A prevailing party need not cross-petition to defend a judgment on any ground properly raised below, so long as that party seeks to preserve, and not to change, the judgment”). It further was suggested that because we granted certiorari on the Government's rephrasing of petitioner's questions and because the third question—“whether the court of appeals correctly held that the submission of invalid nonstatutory aggravating factors was harmless beyond a reasonable doubt”—presumes error, we must assume the nonstatutory aggravating factors were erroneous. Tr. of Oral Arg. 25–27. We are not convinced that the reformulated question presumes error. The question whether the nonstatutory aggravating factors were constitutional is fairly included within the third question presented *397 we might answer “no” to the question “[w]hether the Court of Appeals correctly held that the submission of invalid nonstatutory aggravating factors was harmless beyond a reasonable doubt,” 525 U.S. 809, 119 S.Ct. 39, 142 L.Ed.2d 31 (1998), by explaining that the Fifth Circuit was incorrect in holding that there was error. Without a doubt, the Government would have done better to call our attention to the fact that it planned to argue that the nonstatutory aggravating factors were valid at the petitioning stage. But it did not affirmatively concede that the nonstatutory aggravators were invalid, see Brief in Opposition 18–22, and absent such a concession, we think that the Government's argument is properly presented.¹²

¹² The dissent would treat this aspect of the Government's argument as waived. *Post*, at

2117, n. 24. As Justice GINSBURG explained, for a unanimous Court, in *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 117 S.Ct. 467, 136 L.Ed.2d 437 (1996): “Under this Court’s Rule 15.2, a nonjurisdictional argument not raised in a respondent’s brief in opposition to a petition for a writ of certiorari ‘may be deemed waived.’ ” *Id.*, at 75, n. 13, 117 S.Ct. 467 (emphasis added). But we have not done so when the issue not raised in the brief in opposition was “predicate to an intelligent resolution of the question presented.” *Ohio v. Robinette*, 519 U.S. 33, 38, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996) (internal quotation marks omitted); see also *Caterpillar*, 519 U.S., at 75, n. 13, 117 S.Ct. 467. In those instances, we have treated the issue not raised in opposition as fairly included within the question presented. This is certainly such a case. Assessing the error (including whether there was error at all) is essential to an intelligent resolution of whether any such error was harmless. Moreover, here, as in *Caterpillar*, “[t]he parties addressed the issue in their briefs and at oral argument.” *Ibid.* By contrast, in the cases that the dissent looks to for support for its position, there were good reasons to decline to exercise our discretion. In *Roberts v. Galen of Va., Inc.*, 525 U.S. 249, 253–254, 119 S.Ct. 685, 142 L.Ed.2d 648 (1999) (*per curiam*), the “claims [we declined to consider did] not appear to have been sufficiently developed below for us to assess them,” and in *South Central Bell Telephone Co. v. Alabama*, 526 U.S. 160, 171, 119 S.Ct. 1180, 143 L.Ed.2d 258 (1999), the argument respondent raised for the first time in its merits brief was “so far-reaching an argument” that “[w]e would normally expect notice [of it],” especially when, unlike this case, the respondent’s argument did not appear to have been raised or considered below.

*398 1

We first address petitioner’s contention that the two nonstatutory aggravating factors were impermissibly duplicative. The Fifth Circuit reasoned that “[t]he plain meaning of the term ‘personal characteristics,’ used in [nonstatutory aggravator] 3(C), necessarily includes ‘young age, slight stature, background, and unfamiliarity,’

which the jury was asked to consider in 3(B).” 132 F.3d, at 250. The problem, the court thought, was that this duplication led to “double counting” of aggravating factors. Following a Tenth Circuit decision, *United States v. McCullah*, 76 F.3d 1087, 1111 (1996), the Fifth Circuit was of the view that in a weighing scheme, “double counting” has a tendency to skew the process so as to give rise to the risk of an arbitrary, and thus unconstitutional, death sentence. 132 F.3d, at 251. In the Fifth Circuit’s words, there **2107 may be a thumb on the scale in favor of death “[i]f the jury has been asked to weigh the same aggravating factor twice.” *Ibid.*

We have never before held that aggravating factors could be duplicative so as to render them constitutionally invalid, nor have we passed on the “double counting” theory that the Tenth Circuit advanced in *McCullah*¹³ and the Fifth Circuit appears to have followed here. What we have said is that the weighing process may be impermissibly skewed if the sentencing jury considers an invalid factor. See *Stringer v. Black*, 503 U.S. 222, 232, 112 S.Ct. 1130, 117 L.Ed.2d 367 (1992). Petitioner’s argument (and the reasoning of the Fifth and Tenth Circuits) would have us reach a quite different proposition—that if two aggravating factors are “duplicative,” then the weighing process necessarily is skewed, and the factors are therefore invalid.

¹³ The Tenth Circuit, in a decision subsequent to *McCullah*, has emphasized that factors do not impermissibly overlap unless one “necessarily subsumes” the other. *Cooks v. Ward*, 165 F.3d 1283, 1289 (1998).

Even accepting, for the sake of argument, petitioner’s “double counting” theory, there are nevertheless several *399 problems with the Fifth Circuit’s application of the theory in this case. The phrase “personal characteristics” as used in factor 3(C) does not obviously include the specific personal characteristics listed in 3(B)—“young age, her slight stature, her background, and her unfamiliarity with San Angelo”—especially in light of the fact that 3(C) went on to refer to the impact of the crime on the victim’s family. In the context of considering the effect of the crime on the victim’s family, it would be more natural to understand

“personal characteristics” to refer to those aspects of the victim's character and personality that her family would miss the most. More important, to the extent that there was any ambiguity arising from how the factors were drafted, the Government's argument to the jury made clear that 3(B) and 3(C) went to entirely different areas of aggravation—the former clearly went to victim vulnerability while the latter captured the victim's individual uniqueness and the effect of the crime on her family. See, e.g., 25 Record 2733–2734 (“[Y]ou can consider [the victim's] young age, her slight stature, her background, her unfamiliarity with the San Angelo area.... She is barely five feet tall [and] weighs approximately 100 pounds. [She is] the ideal victim”); *id.*, at 2734 (“[Y]ou can consider [the victim's] personal characteristics and the effects of the instant offense on her family.... You heard about this young woman, you heard about her from her mother, you heard about her from her friends that knew her. She was special, she was unique, she was loving, she was caring, she had a lot to offer this world”). As such, even if the phrase “personal characteristics” as used in factor 3(C) was understood to include the specific personal characteristics listed in 3(B), the factors as a whole were not duplicative—at best, certain evidence was relevant to two different aggravating factors. Moreover, any risk that the weighing process would be skewed was eliminated by the District Court's instruction that the jury “should not simply count the number of aggravating and mitigating factors and reach a decision *400 based on which number is greater [but rather] should consider the weight and value of each factor.” App. 45.

2

We also are of the view that the Fifth Circuit incorrectly concluded that factors 3(B) and 3(C) were unconstitutionally vague. In that court's view, the nonstatutory aggravating factors challenged here “fail[ed] to guide the jury's discretion, or [to] distinguish this murder from any other murder.” 132 F.3d, at 251. The Court of Appeals, relying on our decision in *Maynard v. Cartwright*, 486 U.S. 356, 361–362, 108 S.Ct. 1853, 100 L.Ed.2d 372 (1988), also was of the opinion that “[t]he use of

the terms ‘background,’ ‘personal characteristics,’ and ‘unfamiliarity’ without further definition or instruction left the jury with ... open-ended discretion.” 132 F.3d, at 251 (internal quotation marks omitted).

Ensuring that a sentence of death is not so infected with bias or caprice is our “controlling **2108 objective when we examine eligibility and selection factors for vagueness.” *Tuilaepa v. California*, 512 U.S. 967, 973, 114 S.Ct. 2630, 129 L.Ed.2d 750 (1994). Our vagueness review, however, is “quite deferential.” *Ibid.* As long as an aggravating factor has a core meaning that criminal juries should be capable of understanding, it will pass constitutional muster. *Ibid.* Assessed under this deferential standard, the factors challenged here surely are not vague. The jury should have had no difficulty understanding that factor 3(B) was designed to ask it to consider whether the victim was especially vulnerable to petitioner's attack. Nor should it have had difficulty comprehending that factor 3(C) asked it to consider the victim's personal traits and the effect of the crime on her family.¹⁴ Even if the factors as written *401 were somewhat vague, the Fifth Circuit was wrong to conclude that the factors were not given further definition, see 132 F.3d, at 251; as we have explained, the Government's argument made absolutely clear what each nonstatutory factor meant.¹⁵

¹⁴ Petitioner argues that the term “personal characteristics” was so vague that the jury may have thought it could consider the victim's race and the petitioner's race under factor 3(C). In light of the remainder of the factor and the Government's argument with respect to the factor, we fail to see that possibility. In any event, in accordance with the Death Penalty Act's explicit command in § 3593(f), the District Court instructed the jury not to consider race at all in reaching its decision. App. 47. Jurors are presumed to have followed their instructions. See *Richardson v. Marsh*, 481 U.S. 200, 206, 107 S.Ct. 1702, 95 L.Ed.2d 176 (1987).

¹⁵ We reiterate the point we made in *Tuilaepa v. California*, 512 U.S. 967, 114 S.Ct. 2630, 129 L.Ed.2d 750 (1994)—we have held only

a few, quite similar factors vague, see, *e.g.*, Maynard v. Cartwright, 486 U.S. 356, 108 S.Ct. 1853, 100 L.Ed.2d 372 (1988) (whether murder was “especially heinous, atrocious, or cruel”), while upholding numerous other factors against vagueness challenges, see 512 U.S., at 974, 114 S.Ct. 2630 (collecting cases).

3

Finally, we turn to petitioner's contention that the challenged nonstatutory factors were overbroad. An aggravating factor can be overbroad if the sentencing jury “fairly could conclude that an aggravating circumstance applies to *every* defendant eligible for the death penalty.” Arave v. Creech, 507 U.S. 463, 474, 113 S.Ct. 1534, 123 L.Ed.2d 188 (1993). We have not, however, specifically considered what it means for a factor to be overbroad when it is important only for selection purposes and especially when it sets forth victim vulnerability or victim impact evidence. Of course, every murder will have an impact on the victim's family and friends and victims are often chosen because of their vulnerability. It might seem, then, that the factors 3(B) and 3(C) apply to every eligible defendant and thus fall within the Eighth Amendment's proscription against overbroad factors. But that cannot be correct; if it were, we would not have decided Payne as we did. Even though the *concepts* of victim impact and victim vulnerability may well be relevant in every case, *evidence* of victim vulnerability and victim impact in a particular case is inherently individualized. And such evidence is surely relevant to the selection phase decision, given that the sentencer *402 should consider all of the circumstances of the crime in deciding whether to impose the death penalty. See Tuilaepa, 512 U.S., at 976, 114 S.Ct. 2630.

What is of common importance at the eligibility and selection stages is that “the process is neutral and principled so as to guard against bias or caprice in the sentencing decision.” *Id.*, at 973, 114 S.Ct. 2630. So long as victim vulnerability and victim impact factors are used to direct the jury to the individual circumstances of the case, we do not think that principle will be disturbed. Because factors 3(B) and

3(C) directed the jury to the evidence specific to this case, we do not think that they were overbroad in a way that offended the Constitution.

B

[35] The error in this case, if any, rests in loose drafting of the nonstatutory aggravating factors; as we have made clear, victim vulnerability and victim impact evidence are appropriate subjects for the capital sentencer's **2109 consideration. Assuming that use of these loosely drafted factors was indeed error, we conclude that the error was harmless.

[36] Harmless-error review of a death sentence may be performed in at least two different ways. An appellate court may choose to consider whether absent an invalid factor, the jury would have reached the same verdict or it may choose instead to consider whether the result would have been the same had the invalid aggravating factor been precisely defined. See Clemons v. Mississippi, 494 U.S. 738, 753–754, 110 S.Ct. 1441, 108 L.Ed.2d 725 (1990). The Fifth Circuit chose to perform the first sort of analysis, and ultimately concluded that the jury would have returned a recommendation of death even had it not considered the two supposedly invalid nonstatutory aggravating factors:

“After removing the offensive non-statutory aggravating factors from the balance, we are left with two *403 statutory aggravating factors and eleven mitigating factors to consider when deciding whether, beyond a reasonable doubt, the death sentence would have been imposed had the invalid aggravating factors never been submitted to the jury. At the sentencing hearing, the government placed great emphasis on the two statutory aggravating factors found unanimously by the jury—Jones caused the death of the victim during the commission of the offense of kidnapping; and the offense was committed in an especially heinous, cruel, and depraved manner in that it involved torture or serious physical abuse of the victim. Under part two of the Special Findings Form, if the jury had failed to find that the government proved at least one

of the statutory aggravating factors beyond a reasonable doubt, then the deliberations would have ceased leaving the jury powerless to recommend the death penalty. Therefore, the ability of the jury to recommend the death penalty hinged on a finding of a least one statutory aggravating factor. Conversely, jury findings regarding the non-statutory aggravating factors were not required before the jury could recommend the death penalty. After removing the two non-statutory aggravating factors from the mix, we conclude that the two remaining statutory aggravating factors unanimously found by the jury support the sentence of death, even after considering the eleven mitigating factors found by one or more jurors. Consequently, the error was harmless because the death sentence would have been imposed beyond a reasonable doubt had the invalid aggravating factors never been submitted to the jury.” 132 F.3d, at 252.

Petitioner claims that the court's analysis was so perfunctory as to be infirm. His argument is largely based on the following passage from *Clemons*: “Under these circumstances, it would require a detailed explanation based on the record for *404 us possibly to agree that the error in giving the invalid ‘especially heinous’ instruction was harmless.” 494 U.S., at 753–754, 110 S.Ct. 1441 (emphasis added). *Clemons*, however, involved quite different facts. There, an “especially heinous” aggravating factor was determined to be unconstitutionally vague. The only remaining aggravating factor was that the murder was committed during a robbery for pecuniary gain. The State had repeatedly emphasized the invalid factor and said little about the valid aggravator. See *id.*, at 753, 110 S.Ct. 1441. Despite this, all that the Mississippi Supreme Court said was: “ ‘We likewise are of the opinion beyond a reasonable doubt that the jury's verdict would have been the same with or without the “especially heinous, atrocious or cruel” aggravating circumstance.’ ” *Ibid.* (quoting *Clemons v. State*, 535 So.2d 1354, 1364 (Miss.1988)). We quite understandably required a “detailed explanation based on the record” in those circumstances.

The same “detailed explanation ... on the record” that we required in *Clemons* may not have been

necessary in this case. Cf. *Sochor v. Florida*, 504 U.S. 527, 540, 112 S.Ct. 2114, 119 L.Ed.2d 326 (1992) (there is no federal requirement that state courts adopt “a particular formulaic indication” before their review for harmless error will pass scrutiny). But even if the Fifth Circuit's harmless-error analysis was too perfunctory, we think it plain, under the alternative mode of harmless-error analysis, that the error indeed was harmless beyond a reasonable doubt. See **2110 § 3595(c) (2) (federal death sentences are not to be set aside on the basis of errors that are harmless beyond a reasonable doubt). Had factors 3(B) and 3(C) been precisely defined in writing, the jury surely would have reached the same recommendation as it did. The Government's argument to the jury, see, e.g., 25 Record 2733–2734, cured the nonstatutory factors of any infirmity as written. We are satisfied that the jury in this case actually understood what each factor was designed to put before it, and therefore have *405 no doubt that the jury would have reached the same conclusion had the aggravators been precisely defined in writing.

* * *

For the foregoing reasons, the judgment of the Court of Appeals is affirmed.

It is so ordered.

Justice GINSBURG, with whom Justice STEVENS and Justice SOUTER join, and with whom Justice BREYER joins as to Parts I, II, III, and V, dissenting.

The Federal Death Penalty Act of 1994 (FDPA), 18 U.S.C. §§ 3591–3598 (1994 ed. and Supp. III), establishes a complex regime applicable when the Government seeks the ultimate penalty for a defendant found guilty of an offense potentially punishable by death. This case is pathmarking, for it is the first application of the FDPA. Two questions, as I comprehend petitioner's core objections, warrant prime attention.

First, when Congress specifies only two sentencing options for an offense, death or life without

possibility of release, must the jury be told exactly that? Or, can a death decision stand despite misleading trial court “lesser sentence” instructions, specifically, instructions open to the construction that lack of a unanimous jury vote for either life or death would allow the judge to impose a sentence less severe than life in prison? Second, when the jury is unable to agree on a unanimous recommendation in a case in which death or life without possibility of release are the only sentencing options, must the judge then impose the life sentence? Or, is the judge required or permitted to impanel a second jury to make the life or death decision?

The Court of Appeals for the Fifth Circuit confronted these two questions and resolved both for the prosecution. The Fifth Circuit also tolerated the trial court's submission of two nonstatutory aggravating factors to the jury, although *406 the appeals court found those factors duplicative and vague.¹ The lower courts' disposition for death, despite the flawed trial proceedings, and this Court's tolerance of the flaws, disregard a most basic guide: “[A]ccurate sentencing information is an indispensable prerequisite to a [jury's] determination of whether a defendant shall live or die.” *Gregg v. Georgia*, 428 U.S. 153, 190, 96 S.Ct. 2909, 49 L.Ed.2d 859 (1976) (joint opinion of Stewart, Powell, and STEVENS, JJ.). That “indispensable prerequisite” was not satisfied in this case. I would reverse and remand so that the life or death decision may be made by an accurately informed trier.

¹ The Court granted certiorari on three questions as phrased by the United States:

“ 1. Whether petitioner was entitled to a jury instruction that the jury's failure to agree on a sentencing recommendation automatically would result in a court-imposed sentence of life imprisonment without possibility of release. 2. Whether there is a reasonable likelihood that the jury instructions led the jury to believe that deadlock on the penalty recommendation would automatically result in a court-imposed sentence less severe than life imprisonment. 3. Whether the Court of Appeals correctly held that the submission of invalid nonstatutory aggravating factors

was harmless beyond a reasonable doubt.’ ” 525 U.S. 809, 119 S.Ct. 39, 142 L.Ed.2d 31 (1998); see also Brief for United States I. I think it fair and “ ‘principled,’ ” *ante*, at 2108, to read the indigent petitioner's arguments on the questions presented with the willingness to overlook “loose drafting” that the Court consistently shows in evaluating the Government's case. See, e.g., *ante*, at 2104, 2108; see also *ante*, at 2105–2108 (adopting Government's merits brief arguments although those arguments were not mentioned in the Brief in Opposition).

I

After authorizing the federal death penalty for a small category of cases in 1988,² Congress **2111 enacted comprehensive death penalty legislation in 1994. See FDPA, 108 Stat. *407 1959.³ Applicable to over 40 existing and newly declared death-eligible offenses, see 18 U.S.C. § 3591; §§ 60005–60024, 108 Stat. 1970–1982,⁴ the FDPA prescribes penalty-phase procedures; principally, it provides for a separate sentencing hearing whenever the Government seeks the death penalty for defendants found guilty of a covered offense. See 18 U.S.C. § 3593.⁵

² The predecessor Anti-Drug Abuse Act of 1988 authorized the death penalty for murder resulting from certain drug-related offenses. See 21 U.S.C. § 848(e). The FDPA states that its procedures apply to “any [federal] offense for which a sentence of death is provided,” 18 U.S.C. § 3591(a)(2), but does not repeal the 1988 Act, which differs in some respects. See, e.g., 21 U.S.C. §§ 848(q)(4)–(9) (mandatory appointment of habeas counsel and provision of investigative and expert services).

³ Congress enacted three statutes authorizing the death penalty between 1972 and 1988: Antihijacking Act of 1974, § 105, 88 Stat. 411–413, repealed by FDPA, § 6002, 108 Stat. 1970 (air piracy); Criminal Law and Procedure Technical Amendments Act of 1986, § 61, 100 Stat. 3614 (witness killing); Department of Defense Authorization Act, 1986, § 534, 99 Stat. 634–635 (amending the Uniform

Military Justice Act to establish weighing procedures for courts-martial considering the death penalty for espionage). Earlier federal statutes authorizing the death penalty remained on the books, but were not invoked following this Court's decision in *Furman v. Georgia*, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972) (*per curiam*), which led to a hiatus in death penalty adjudications. See Little, *The Federal Death Penalty: History and Some Thoughts About the Department of Justice's Role*, 26 Ford. Urb. L.J. 347, 349, n. 5, 372–380 (1999).

⁴ See *id.*, at 391, and n. 242 (estimating that the FDPA applies to at least 44 offenses).

⁵ The sentencing hearing is before a jury unless the defendant, with the approval of the Government, moves for a hearing before the court. See 18 U.S.C. § 3593(b).

In death-eligible homicide cases, the Act instructs, the jury must respond sequentially to three inquiries; imposition of the death penalty requires unanimity on each of the three. First, the jury determines whether there was a killing or death resulting from the defendant's intentional engagement in life-threatening activity. See 18 U.S.C. § 3591(a)(2).⁶ *408 Second, the jury decides which, if any, of the Government-proposed aggravating factors, statutory and nonstatutory, were proved beyond a reasonable doubt. See § 3593(d).⁷ Third, if the jury finds at least one of the statutory aggravators proposed by the Government, the jury then determines whether the aggravating factors “sufficiently outweigh” the mitigating factors to warrant a death sentence, or, absent mitigating factors, whether the aggravators alone warrant that sentence. § 3593(e). The mitigating factors, seven statutory and any others tending against the death sentence, are individually determined by each juror; unlike aggravating factors, on which the jury must unanimously agree under a “beyond a reasonable doubt” standard, a mitigating factor may be considered in the jury's weighing process if any one juror finds the factor proved by a “preponderance of the evidence.” See §§ 3592(a), (c), 3593(d). The weighing is not numeric; the perceived significance, not the number, of

aggravating and mitigating factors determines the decision.⁸

⁶ Section 3591(a)(2) allows the death penalty for a defendant found guilty of a death-eligible homicide “if the defendant, as determined beyond a reasonable doubt at the [sentencing] hearing”:

“(A) intentionally killed the victim;

“(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

“(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

“(D) intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act.”

⁷ The FDPA lists 16 aggravating factors for homicide and allows the jury to “consider whether any other aggravating factor for which notice has been given [by the Government] exists.” 18 U.S.C. § 3592(c). Nonstatutory aggravators “may include factors concerning the effect of the offense on the victim and the victim's family.” § 3593(a).

⁸ See Little, *supra*, at 397 (“[Weighing] requires qualitative, not quantitative, evaluation.” (internal quotation marks omitted)).

II

Louis Jones, Jr.'s crime was atrocious; its commission followed Jones's precipitous decline **2112 in fortune and self-governance on termination of his 22-year Army career. On February 18, 1995, Jones forcibly abducted Private Tracie *409 Joy McBride at gunpoint from the Goodfellow Air Force Base in San Angelo, Texas.

In the course of the abduction, Jones struck Private Michael Alan Peacock with a handgun, leaving him unconscious. Thereafter, Jones sexually assaulted and killed McBride, leaving her body under a bridge located 20 miles outside of San Angelo. See 132 F.3d 232, 237 (C.A.5 1998).

In the fall of 1995, Jones was tried before a jury and convicted of kidnaping with death resulting, in violation of 18 U.S.C. § 1201(a)(2). See 132 F.3d, at 237–238. A separate sentencing hearing followed to determine whether Jones would be punished by death. See *id.*, at 238.

At the close of the sentencing hearing, Jones submitted proposed jury instructions. Jones's instruction no. 4 would have advised the jury that it must sentence Jones to life without possibility of release rather than death “[i]f ... any one of you is not persuaded that justice demands Mr. Jones's execution.” App. 13.⁹ Jones's instruction no. 5 would have advised that, if “the jury is unable to agree on a unanimous decision as to the sentence to be imposed,” the jury should so inform the judge, who would then “impose a sentence of life imprisonment without possibility of release.” *Id.*, at 14.¹⁰ Proposed instructions nos. 4 and 5, although inartfully *410 drawn, unquestionably sought to convey this core information: If the jurors did not agree on death, then the only sentencing option, for jury or judge, would be life without possibility of release. Jones also objected, on vagueness grounds, to two of the three nonstatutory aggravators proposed by the Government. See *id.*, at 21–22, 28.

⁹ Jones's instruction no. 4 read in relevant part: “If, after fair and impartial consideration of all the evidence in this case, any one of you is not persuaded that justice demands Mr. Jones's execution, then the jury must return a decision against capital punishment and must fix Mr. Jones[s] punishment at life in prison without any possibility of release.” App. 13.

¹⁰ Jones's instruction no. 5 read in relevant part: “[I]f any of you—even a single juror—is not persuaded beyond a reasonable doubt that Mr. Jones[s] execution is required in this case, then the entire jury must render a

decision against his death. In that event, the jury must fix his punishment at life in prison without any possibility of release.

“Again, unless all twelve members of the jury determine that Mr. Jones should receive the death penalty, I will impose a sentence of life imprisonment without possibility of release. In the event, after due deliberation and reflection, the jury is unable to agree on a unanimous decision as to the sentence to be imposed, you should so advise me and I will impose a sentence of life imprisonment without possibility of release

“In the event you are unable to agree on Life Without Possibility of Release or Death, but you are unanimous that the sentence should not be less than Life Without Possibility of Release, you should report that vote to the Court and the Court will sentence the defendant to Life Without the Possibility of Release.” App. 14–15.

In “Defendant's Objections to the Court's Charge,” Jones “particularly direct[ed] the court's attention” to his proposed instruction no. 5. *Id.*, at 25, 30.

The District Court rejected Jones's proposed instructions nos. 4 and 5 and refused to strike or modify the nonstatutory aggravators to which Jones had objected. See *id.*, at 33. The trial court instructed the jury that it could recommend death, life without possibility of release, or a lesser sentence, in which event the court would decide what the lesser sentence would be. See *id.*, at 44.

The jury apparently found the case close. It rejected three of the seven aggravators the Government urged. See 132 F.3d, at 238.¹¹ And one or more jurors found each of the specific mitigating factors submitted by Jones. See *411 *ibid.*¹² The jury deliberated **2113 for a day and a half before returning a verdict recommending death.

¹¹ The jury rejected the following aggravators: (1) the crime involved substantial planning and premeditation, see 18 U.S.C. § 3592(c)(9); (2) the crime created a grave risk to a person other than the victim, see § 3592(c)(5); and (3) Jones posed a future danger to the lives and safety of other persons. It found as aggravators: (1) Jones killed the victim during the commission of kidnaping, see § 3592(c)

(1); (2) the crime was especially heinous, cruel, and depraved, see § 3592(c)(6); (3) the victim's young age, slight stature, background, and unfamiliarity with San Angelo, Texas; and (4) the victim's personal characteristics and the effect of the offense on her family. See 132 F.3d, at 238, and nn. 1, 2.

12

One or more jurors found each of Jones's ten specific mitigating factors. None found the eleventh, a catchall stating that “other factors in the defendant's background or character militate against the death penalty,” see 18 U.S.C. § 3592(a)(8), but seven found the existence of an additional mitigating factor not submitted by Jones. See 132 F.3d, at 238–239, n. 3.

Jones moved for a new trial on the ground, supported by postsentence juror statements, that the court's instructions had misled the jurors. Specifically, Jones urged that the charge led jurors to believe that a deadlock would result in a court-imposed lesser sentence; to avoid such an outcome, Jones asserted, jurors who favored life without possibility of release changed their votes to approve the death verdict. See App. 60–68, 75–80. The vote change, Jones maintained, was not hypothetical; it was backed up by juror statements. See *id.*, at 68, 79. The District Court denied the new trial motion. *Id.*, at 74, 81.

The Court of Appeals for the Fifth Circuit affirmed the death sentence. The appeals court ruled first that the District Court correctly refused to instruct that a jury deadlock would yield a court-imposed sentence of life imprisonment without possibility of release. 132 F.3d, at 242–243. Jury deadlock under the FDPA, the Fifth Circuit stated, would not occasion an automatic life sentence; instead, that court declared, deadlock would necessitate a second sentencing hearing before a newly impaneled jury. *Id.*, at 243. The Court of Appeals further observed that, “[a]lthough the use of instructions to inform the jury of the consequences of a hung jury ha[s] been affirmed, federal courts have never been affirmatively required to give such instructions.” *Id.*, at 245.

Next, the appeals court determined that the instructions, read in their entirety, “could not

have led a reasonable jury to conclude that non-unanimity would result in the imposition *412 of a lesser sentence.” *Id.*, at 244. Jones could not rely on juror statements, the Fifth Circuit held, to show that the jury, in fact, was so misled when it sentenced him to death. See *id.*, at 245–246 (although Federal Rule of Evidence 606(b) is not applicable to FDPA penalty-phase proceedings, see 18 U.S.C. § 3593(c), “[t]he reasons for not allowing jurors to undermine verdicts in [trial proceedings] ... apply with equal force to sentencing hearings”).

Nor, in the Court of Appeals' view, did the District Court err *plainly* by conveying to the jury the misinformation that three sentencing options were available—death, life imprisonment without release, or some other lesser sentence. See 132 F.3d, at 246–248. Noting that the FDPA takes account of all three possibilities, see 18 U.S.C. § 3593(e), while the kidnaping statute authorizes only two sentences, death or life imprisonment, see § 1201(a), the Fifth Circuit acknowledged that the District Court had erred in giving the jury a lesser sentence option: “[T]he substantive [kidnaping] statute takes precedence over the death penalty sentencing provisions” and limits the options to death or life imprisonment without release. 132 F.3d, at 248. The appeals court nevertheless concluded that the District Court's error was not “plain” because the FDPA was new and no prior opinion had addressed the question; hence, no “clearly established law” was in place at the time of Jones's sentencing hearing. *Ibid.*

The Fifth Circuit also considered Jones's challenge to the nonstatutory aggravators presented to the jury at the Government's request. The court held that the two found by the jury—the victim's “young age, her slight stature, her background, and her unfamiliarity with San Angelo, Texas,” and her “personal characteristics and the effect of the ... offense on [her] family”—were “duplicative” of each other, and also impermissibly “vague and overbroad.” *Id.*, at 250–251. The court declined to upset the death verdict, however, because it believed “the death sentence would have been imposed beyond a reasonable doubt had the invalid aggravating *413 factors never been submitted to the jury.” *Id.*, at 252.

III

The governing law gave Jones's jury at the sentencing phase a life (without release) or death choice. The District Court, however, introduced, erroneously, a third prospect, ****2114** "some other lesser sentence." App. 44.¹³ Moreover, the court told the jury "not to be concerned" with what that lesser sentence might be, for "[t]hat [was] a matter for the court to decide." *Ibid.* The jury's choice was clouded by that misinformation. I set out below my reasons for concluding that the misinformation rendered the jury's death verdict unreliable.

¹³ The problem was not, as the Court describes it, a failure to give the jury "[a] bit of information that might possibly influence an individual juror's voting behavior," *ante*, at 2099; rather, the jury was "'affirmatively misled,'" cf. *ante*, at 2099, by the repeated misinformation the charge and decision forms conveyed.

A

The District Court instructed the jury:

"[Y]ou the jury, by unanimous vote, shall recommend whether the defendant should be sentenced to death, sentenced to life imprisonment without the possibility of release, or sentenced to some other lesser sentence.

.....

"... If you recommend that some other lesser sentence be imposed, the court is required to impose a sentence that is authorized by the law. In deciding what recommendation to make, you are not to be concerned with the question of what sentence the defendant might receive in the event you determine not to recommend a death sentence or a sentence

of life without the possibility of release. That is a matter for the court to decide in the event you conclude that a sentence of death ***414** or life without the possibility of release should not be recommended.

.....

"In order to bring back a verdict recommending the punishment of death or life without the possibility of release, all twelve of you must unanimously vote in favor of such specific penalty." App. 43–45.

Those instructions misinformed the jury in two intertwined respects: First, they wrongly identified a "lesser sentence" option;¹⁴ second, the instructions were open to the reading that, absent juror unanimity on death or life without release, the District Court could impose a lesser sentence.

¹⁴ The verdict forms compounded the error by allowing the jurors to return as their decision the statement: "We the jury recommend some other lesser sentence." App. 59.

Jones does not press the District Court's identification of a lesser sentence option as an independent ground for reversal. That error, however, is an essential component of his argument that the misinformation conveyed by the District Court led the jury to believe that deadlock could result in a less-than-life sentence.

The Fifth Circuit, and the United States in its submission to this Court, acknowledged the charge error. See 132 F.3d, at 248; *ante*, at 2101, n. 8. Section 1201, which defines the crime, governs. It calls for death or life imprisonment, nothing less, and neither parole nor good-time credits could reduce the life sentence. See Brief for United States 13–14, n. 2 ("[W]e agree with petitioner that the only sentences that could have been imposed are death and life without release (because the kidnapping statute, 18 U.S.C. [§] 1201, authorizes only death and life imprisonment, and neither parole nor good-time credits could reduce the life sentence)."). The third option listed in the

FDPA provision, “some other lesser sentence,” § 3593(e), is available only when the substantive statute does not confine the sentence to life or death. The Fifth Circuit found the error “not so obvious, clear, readily apparent, or conspicuous.” 132 F.3d, at 248. I disagree *415 and would rank the District Court’s misconstruction “plain error,”¹⁵ because the FDPA unquestionably is a procedural statute that does not alter substantive **2115 prescriptions.¹⁶ No serious doubt should have existed on that score.¹⁷

¹⁵ Justice BREYER does not believe that the District Court’s submission of the (unobjected-to) jury instructions amounted to “plain error.” In his view, the judge’s (objected-to) failure to submit the defense’s proposed instruction no. 5 amounted to an “abuse of discretion,” for that proposed instruction was legally correct, the judge’s failure to give it likely rested upon an erroneous view of the law, and it would have corrected the false impression created by the remaining instructions. See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405, 110 S.Ct. 2447, 110 L.Ed.2d 359 (1990); App. 74 (order denying defendant’s motion for new trial); cf. 132 F.3d, at 242.

¹⁶ The Fifth Circuit noted that Jones’s counsel proposed language referring to a “lesser sentence,” but reviewed for “plain error,” rather than discounting the error as “invited,” because the District Court did not use defense counsel’s requested language. 132 F.3d, at 246, n. 10. Although Jones’s counsel did propose “lesser sentence” language, see, e.g., App. 26, Jones’s proposed instructions nos. 4 and 5 made one thing clear—his view that the jury and judge were required to impose life without possibility of release if the jury did not agree to death. See *supra*, at 2112, nn. 9, 10.

¹⁷ The Court, in a footnote, appears to recognize what should be beyond genuine debate: For Jones, “the only possible sentences were death and a life sentence.” *Ante*, at 2101, n. 8. In face of the District Court’s lesser sentence instructions, four times given to the jury, it is difficult to comprehend why this Court

“cannot see that any error occurred.” See *ante*, at 2102.

The flawed charge did not simply include a nonexistent option. It could have been understood to convey that, absent juror unanimity, some “lesser sentence” might be imposed by the court. That message came from instructions that the jury must be unanimous to “bring back a verdict recommending the punishment of death or life without the possibility of release,” App. 45, that “some other lesser sentence” was possible, *id.*, at 44, and that the jury should not “be concerned with the ... sentence the defendant might receive in the event [it] determine[d] not to recommend a death sentence or a sentence of life without the possibility of release,” *ibid.* Jones’s proposed instructions—that he *416 would be sentenced to life without possibility of release if the jury did not agree on death, see *supra*, at 2112, and nn. 9, 10—should have made it apparent that he sought to close the door the flawed charge left open.¹⁸

¹⁸ It is the general rule, as the Government observes, and the Court repeats, that “[a] party who has requested an instruction that has not been given is not relieved of the requirement that he state distinctly his objection to the instruction that is given.” Brief for United States 24 (quoting 2 *C. Wright, Federal Practice and Procedure* § 484, p. 702 (2d ed.1982)); see also *ante*, at 2101. It is also true, however, that “the requirement of objections should not be employed woodenly, but should be applied where its application will serve the ends for which it was designed, rather than being made into a trap for the unwary.” 2 *Wright, supra*, § 484, at 699–701. Here, Jones’s proposed instruction that his default sentence was life without possibility of release apprised the District Court and the Government of his essential position.

There is, at least, a reasonable likelihood that the flawed charge tainted the jury deliberations. See *Boyd v. California*, 494 U.S. 370, 380, 110 S.Ct. 1190, 108 L.Ed.2d 316 (1990) (where “[t]he claim is that the instruction is ... subject to an erroneous interpretation,” the “proper inquiry ... is whether there is a reasonable likelihood that the jury has applied the challenged instruction” erroneously). As recently noted, a jury may be swayed toward

death if it believes the defendant otherwise may serve less than life in prison. See *Simmons v. South Carolina*, 512 U.S. 154, 163, 114 S.Ct. 2187, 129 L.Ed.2d 133 (1994) (plurality opinion) (“[I]t is entirely reasonable for a sentencing jury to view a defendant who is eligible for parole as a greater threat to society than a defendant who is not.”). Jurors may have been persuaded to switch from life to death to ward off what no juror wanted, *i.e.*, any chance of a lesser sentence by the judge.¹⁹

¹⁹ While precedent supports the Fifth Circuit's affirmation that statements attesting to the juror's understanding of the instructions are inadmissible, see 132 F.3d, at 245–246, the statements Jones submitted do assert that apprehension of a lesser sentence the judge might impose in fact caused jurors to vote for a death sentence, see App. 68, 79. On a matter so grave, I would not discount those statements altogether. Cf. *Jorgensen v. York Ice Machinery Corp.*, 160 F.2d 432, 435 (C.A.2 1947) (L. Hand, J.) (while many defects in jury deliberation do not require reversal, “this has ... nothing to do with what evidence shall be competent to prove the facts when the facts do require the verdict to be set aside, as concededly some facts do”).

*417 The Court, in common with the Fifth Circuit and the Solicitor General, insists it was just as likely that jurors not supporting death could have persuaded death-prone jurors to give way and vote for a life sentence. See *ante*, at 2105; 132 F.3d, at 246; Brief for United States 22. I would demur (say so what) to that position. It should suffice that the potential to confuse existed, *i.e.*, that the instructions could have tilted the jury toward **2116 death. The instructions “introduce[d] a level of uncertainty and unreliability into the factfinding process that cannot be tolerated in a capital case.” *Beck v. Alabama*, 447 U.S. 625, 643, 100 S.Ct. 2382, 65 L.Ed.2d 392 (1980). “Capital sentencing should not be ... a game of ‘chicken,’ in which life or death turns on the ... happenstance of whether the particular ‘life’ jurors or ‘death’ jurors in each case will be the first to give in, in order to avoid a perceived third sentencing outcome unacceptable to either set of jurors.” Reply Brief 7–8, n. 11.

B

The Fifth Circuit held that the District Court was not obliged to tell the jury that Jones's default penalty was life without possibility of release in part because the appeals court viewed that instruction as “substantively [in]correct.” 132 F.3d, at 242.²⁰ As the Fifth Circuit comprehended the law, if the jury deadlocked, “a second sentencing hearing *418 would have to be held in front of a second jury impaneled for that purpose.” *Id.*, at 243.²¹ But the FDPA, it seems to me clear, does not provide for a second shot at death. The dispositive provision, as I read the Act, is § 3594, which first states that the court shall sentence the defendant to death or life imprisonment without possibility of release if the jury so recommends, and then continues:

²⁰ Misinformation, not the District Court's failure to repeat the unanimity requirement each time it mentioned the jury's sentencing options, or to advise on the consequences of a deadlocked jury, is the harmful error at the heart of Jones's case. I therefore see no cause to dispute that “the Eighth Amendment does not require that the jury be instructed as to the consequences of their failure to agree.” *Ante*, at 2098. In my judgment, however, the court was obliged, in this life or death case, to make clear to the jury that Jones's minimum sentence was life without possibility of release.

²¹ At oral argument, counsel for the United States maintained that it would be up to the prosecutor, when a jury is deadlocked, to request a new panel or to allow the judge to decide on the sentence. See Tr. of Oral Arg. 41. But this could be done only once, the Government maintained: In the event of a second deadlock, it would be the court's obligation to impose the sentence. See *id.*, at 46.

“Otherwise, the court shall impose any lesser sentence that is authorized by law. Notwithstanding any other law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence

of life imprisonment without possibility of release.” 18 U.S.C. § 3594.

The “[o]therwise” clause, requiring judge sentencing, becomes operative when a jury fails to make a unanimous recommendation at the close of deliberations. The Fifth Circuit’s attention was deflected from the § 3594 path by § 3593(b)(2)(C), which provides for a sentencing hearing “before a jury impaneled for the purpose of the hearing if ... the jury that determined the defendant’s guilt was discharged for good cause.” Discharge for “good cause” under § 3593(b)(2)(C), however, is most reasonably read to cover guilt-phase (and, by extension, penalty-phase) juror disqualification due to, *e.g.*, exposure to prejudicial extrinsic information or illness. The provision should not be read expansively to encompass failure to reach a unanimous life or death decision.

The Government refers to a “background rule” allowing retrial if the jury is unable to reach a verdict, and urges that *419 the FDPA should be read in light of that rule. Brief for United States 29. But retrial is not the prevailing rule for capital penalty-phase proceedings. As the Government’s own survey of state laws shows, in life or death cases, most States require judge sentencing once a jury has deadlocked. See *id.*, at 32; App. to Brief for United States 1a–6a (identifying 25 States in which the court imposes sentence upon deadlock and three States in which a new sentencing hearing is possible); see also Acker & Lanier, Law, Discretion, and the Capital Jury: Death Penalty Statutes and Proposals for Reform, 32 Crim. L. Bull. 134, 169 (1996) (“In twenty-five of the twenty-nine states in which capital juries have final sentencing authority, ... a deadlocked sentencing jury is transformed into a ‘lifelocked’ jury. That is, the jury’s inability to produce a unanimous penalty-phase verdict results in the defendant’s being sentenced to life imprisonment **2117 or life imprisonment without parole.” (footnotes omitted)).

Furthermore, at the time Congress adopted the FDPA, identical language in the predecessor Anti-Drug Abuse and Death Penalty Act of 1988 had been construed to mandate court sentencing upon jury deadlock. See *United States v. Chandler*,

996 F.2d 1073, 1086 (C.A.11 1993) (“If the jury does not [recommend death], the district court sentences the defendant.”); *United States v. Pitera*, 795 F.Supp. 546, 552 (E.D.N.Y.1992) (“Absent a recommendation of death, the court must sentence a defendant.”).²² The House Report suggests that Congress understood and approved that construction. See H.R.Rep. No. 103–467, p. 9 (1994) (“If the jury is not *420 unanimous, the judge shall impose the sentence pursuant to Section 3594.”).

²² Like the FDPA, the Anti-Drug Abuse Act provides for a new sentencing jury if the guilt-phase jury “has been discharged for good cause,” 21 U.S.C. § 848(i)(1)(B)(iii), and states, immediately after providing for the death sentence upon jury recommendation, that “[o]therwise the court shall impose a sentence, other than death, authorized by law,” § 848(l). Under the Anti-Drug Abuse Act, unlike the FDPA, the only binding recommendation the jury can make is for death.

IV

Piled on the key instructional error, the trial court presented the jury with duplicative, vague nonstatutory aggravating factors. The court told the jury to consider as aggravators, if established beyond a reasonable doubt, factors 3(B)—the victim’s “young age, her slight stature, her background, and her unfamiliarity with San Angelo, Texas”—and 3(C)—the victim’s “personal characteristics and the effect of the instant offense on [her] family.” 132 F.3d, at 250.²³ The jury found both. See *ibid.*

²³ Counsel specifically objected to these factors. See App. 21–22, 28.

The District Court did not clarify the meaning of the terms “background” and “personal characteristics.” See *id.*, at 251. Notably, the term “personal characteristics” in aggravator 3(C) necessarily included “young age,” “slight stature,” “background,” and “unfamiliarity,” factors the jury was told to consider in aggravator 3(B). I would not attribute to the Court genuine disagreement

with that proposition. But see *ante*, at 2106–2107. Double counting of aggravators “creates the risk of an arbitrary death sentence.” 132 F.3d, at 251; see also *United States v. McCullah*, 76 F.3d 1087, 1111 (C.A.10 1996) (“Such double counting of aggravating factors, especially under a weighing scheme, has a tendency to skew the weighing process and creates the risk that the death sentence will be imposed arbitrarily.”). The Fifth Circuit considered the District Court’s lapse inconsequential, concluding that “the two remaining statutory aggravating factors ... support the sentence of death, even after considering the eleven mitigating factors.” 132 F.3d, at 252.²⁴

²⁴

The Government now argues, contrary to the Fifth Circuit’s conclusion, that aggravating factors 3(B) and 3(C) are not duplicative, vague, or overbroad. See Brief for United States 40–45. The Court granted certiorari on the Government’s reformulated questions, which presumed the incorrectness of the aggravators. See *supra*, at 2110, n. 1. In its brief in opposition, the Government did not challenge the Fifth Circuit’s determination of error, but focused solely on whether the error was harmless. Justice Thomas, writing for a plurality, nevertheless addresses the Government’s newly raised argument. See *ante*, at 2105–2108. I would hold the Government to a tighter rein and dismiss the tardy argument as waived. See *Roberts v. Galen of Va., Inc.*, 525 U.S. 249, 253, 119 S.Ct. 685, 142 L.Ed.2d 648 (1999) (*per curiam*); *South Central Bell Telephone Co. v. Alabama*, 526 U.S. 160, 119 S.Ct. 1180, 143 L.Ed.2d 258 (1999); cf. this Court’s Rule 15.2.

It is evident that the issue held back by the Government was not “predicate to an intelligent resolution of the question presented.” *Ohio v. Robinette*, 519 U.S. 33, 38, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996) (internal quotation marks omitted). But see *ante*, at 2106, n. 12. Justice Thomas treats the two issues as separate and independent. He maintains first that there was no error. Writing for the Court, he then proceeds to assume there was error and concludes that any error was harmless. Either holding would do to support the Court’s disposition. See, e.g., *United States*

v. Hasting, 461 U.S. 499, 506, n. 4, 510–512, 103 S.Ct. 1974, 76 L.Ed.2d 96 (1983) (holding presumed error harmless rather than deciding whether there was, in fact, error; Court explains “[t]he question on which review was granted assumed that there was error and the question to be resolved was whether harmless-error analysis should have applied”); *id.*, at 512–513, 103 S.Ct. 1974 (STEVENS, J., concurring) (Court should decide case on the ground that there was no error, without reaching harmless-error question).

****2118 *421** Appellate courts should hesitate to assert confidence that “elimination of improperly considered aggravating circumstances could not possibly affect the balance.” *Barclay v. Florida*, 463 U.S. 939, 958, 103 S.Ct. 3418, 77 L.Ed.2d 1134 (1983). Adding the overlapping aggravators to the more disturbing misinformation conveyed in the charge, I see no basis for concluding “‘it would have made no difference if the thumb had been removed from death’s side of the scale.’” 132 F.3d, at 251 (quoting *Stringer v. Black*, 503 U.S. 222, 232, 112 S.Ct. 1130, 117 L.Ed.2d 367 (1992)).

V

The Fifth Circuit’s tolerance of error in this case, and this Court’s refusal to face up to it, cannot be reconciled with the recognition in *Woodson v. North Carolina*, 428 U.S. 280, 305, 96 S.Ct. 2978, 49 L.Ed.2d 944 (1976) (plurality opinion), that “death is qualitatively different.” If the jury’s weighing process is infected by the trial court’s misperceptions of the law, the legitimacy of an ensuing ***422** death sentence should not hinge on defense counsel’s shortfalls or the reviewing court’s speculation about the decision the jury would have made absent the infection. I would vacate the jury’s sentencing decision and remand the case for a new sentencing hearing, one that would proceed with the accuracy that superintendents of the FDPA should demand.

All Citations

Serv. 4802, 1999 Daily Journal D.A.R. 6193, 1999

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527 U.S. 373, 119 S.Ct. 2090, 144 L.Ed.2d 370, 67

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Negative Treatment

Negative Citing References (13)

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title	Date	Type	Depth	Headnote(s)
Not Followed on State Law Grounds	1. <u>People v. LaValle</u>  MOST NEGATIVE 783 N.Y.S.2d 485 , N.Y. CRIMINAL JUSTICE - Death Penalty. New York's jury deadlock instruction for death penalty cases violated state's Due Process Clause	June 24, 2004	Case		8 28 31 S.Ct.
Declined to Extend by	2. <u>Davis v. Branker</u>  305 Fed.Appx. 926 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Habeas Corpus. Capital defendant's rights regarding mitigating and aggravating factors were not violated, precluding habeas relief.	Jan. 07, 2009	Case		34 35 36 S.Ct.
Declined to Extend by	3. <u>Com. v. Ballard</u>  80 A.3d 380 , Pa. CRIMINAL JUSTICE - Death Penalty. Death sentences received by defendant for stabbing to death four victims was not product of passion, prejudice, or other arbitrary factor.	Nov. 21, 2013	Case		25 S.Ct.
Distinguished by	 4. <u>U.S. v. Patterson</u> 215 F.3d 776 , 7th Cir.(Ill.) CRIMINAL JUSTICE - Weapons. Exchange of weapons for police protection by defendants selling drugs was illegal "use of a firearm."	June 01, 2000	Case		36 S.Ct.
Distinguished by	 5. <u>Morris v. Woodford</u> 273 F.3d 826 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Death Penalty. Typographical error in written penalty phase instruction warranted federal habeas relief.	Dec. 06, 2001	Case		17 28 31 S.Ct.
Distinguished by	 6. <u>Allen v. Woodford</u>  366 F.3d 823 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Counsel. Petitioner was not prejudiced by counsel's failure to present mitigating evidence.	May 06, 2004	Case		17 34 35 S.Ct.
Distinguished by	 7. <u>State v. Peeler</u>  857 A.2d 808 , Conn. CRIMINAL JUSTICE - Death Penalty. Application of principles of accessory liability to prove existence of aggravating factors did not violate Eighth Amendment.	Oct. 12, 2004	Case		1 2 28 S.Ct.
Distinguished by	 8. <u>State v. Colon</u>  864 A.2d 666 , Conn. CRIMINAL JUSTICE - Death Penalty. Capital murder defendant had no right of allocution in sentencing proceedings.	Dec. 28, 2004	Case		1 2 28 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Distinguished by	 9. <u>Allen v. Woodford</u>  395 F.3d 979 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Death Penalty. Error in counting the special circumstances was harmless.	Jan. 24, 2005	Case		17 34 35 S.Ct.
Distinguished by	 10. <u>Stoltie v. California</u> 501 F.Supp.2d 1252 , C.D.Cal. CRIMINAL JUSTICE - Habeas Corpus. Analogy in a reasonable doubt instruction violated defendant's due process rights.	June 21, 2007	Case		27 28 S.Ct.
Distinguished by	11. <u>Hudson v. Quarterman</u> 2007 WL 2735490 , N.D.Tex. Petitioner Robert Jean Hudson, sentenced to death for capital murder, petitions the Court for writ of habeas corpus pursuant to 28 U.S.C. § 2254, contending that his conviction and...	Sep. 20, 2007	Case		8 17 34 S.Ct.
Distinguished by	12. <u>People v. Taylor</u>  848 N.Y.S.2d 554 , N.Y. CRIMINAL JUSTICE - Death Penalty. Stare decisis required resentencing of defendant who received death penalty under statute found to be facially invalid.	Oct. 23, 2007	Case		3 8 12 S.Ct.
Distinguished by	13. <u>U.S. v. Park</u> 505 Fed.Appx. 186 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Conspiracy. Evidence established defendant's intent regarding conspiracy to defraud the United States.	Nov. 28, 2012	Case		21 S.Ct.

Citing References (500)

Treatment	Title	Date	Type	Depth	Headnote(s)
Not Followed on State Law Grounds NEGATIVE	1. <u>People v. LaValle</u> 783 N.Y.S.2d 485, 502+ , N.Y. CRIMINAL JUSTICE - Death Penalty. New York's jury deadlock instruction for death penalty cases violated state's Due Process Clause	June 24, 2004	Case		8 28 31 S.Ct.
Distinguished by NEGATIVE	2. <u>People v. Taylor</u> 848 N.Y.S.2d 554, 561+ , N.Y. CRIMINAL JUSTICE - Death Penalty. Stare decisis required resentencing of defendant who received death penalty under statute found to be facially invalid.	Oct. 23, 2007	Case		3 8 12 S.Ct.
Distinguished by NEGATIVE	3. <u>Hudson v. Quarterman</u> 2007 WL 2735490, *17+ , N.D.Tex. Petitioner Robert Jean Hudson, sentenced to death for capital murder, petitions the Court for writ of habeas corpus pursuant to 28 U.S.C. § 2254, contending that his conviction and...	Sep. 20, 2007	Case		8 17 34 S.Ct.
Distinguished by NEGATIVE	4. <u>State v. Colon</u> 864 A.2d 666, 810+ , Conn. CRIMINAL JUSTICE - Death Penalty. Capital murder defendant had no right of allocution in sentencing proceedings.	Dec. 28, 2004	Case		1 2 28 S.Ct.
Examined by	5. <u>U.S. v. Fell</u> 531 F.3d 197, 209+ , 2nd Cir.(Vt.) CRIMINAL JUSTICE - Evidence. Exclusion of opinion set forth in draft plea agreement was within court's traditional authority to exclude evidence.	June 27, 2008	Case		34 35 36 S.Ct.
Examined by	6. <u>U.S. v. White</u> 405 F.3d 208, 219+ , 4th Cir.(Md.) CRIMINAL JUSTICE - Sentencing. Treating the sentencing guidelines as mandatory was plain error but did not affect the defendant's substantial rights.	Apr. 26, 2005	Case		17 28 31 S.Ct.
Examined by	7. <u>U.S. v. Stitt</u> 250 F.3d 878, 894+ , 4th Cir.(Va.) CRIMINAL JUSTICE - Evidence. Improper admission of victim impact testimony in rebuttal was harmless error.	May 25, 2001	Case		17 35 36 S.Ct.
Examined by	8. <u>U.S. v. Mitchell</u> 502 F.3d 931, 949+ , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Death Penalty. Jury instruction on pecuniary gain was warranted in capital murder proceedings brought under the Federal Death Penalty Act.	Sep. 05, 2007	Case		34 35 36 S.Ct.
Examined by	9. <u>Hooks v. Workman</u> 606 F.3d 715, 742+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Death Penalty. Allen charge given during penalty phase deliberations in capital murder case was impermissibly coercive.	May 25, 2010	Case		3 8 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	10. U.S. v. Rodriguez ¶¶ 406 F.3d 1261, 1265+ , 11th Cir.(Fla.) The Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of...	Apr. 19, 2005	Case		17 31 33 S.Ct.
Examined by	11. U.S. v. Merriweather ¶¶ 2014 WL 2890632, *2+ , N.D.Ala. Presently before the court are five pretrial criminal motions filed by Defendant William Merriweather contending that the intent and aggravating factors identified in the...	June 25, 2014	Case		5 34 35 S.Ct.
Examined by	12. U.S. v. Sablan ¶¶ 2006 WL 1028780, *3+ , D.Colo. THIS MATTER is before the Court in connection with the parties legal challenges to the death penalty ("Phase II Challenges"). By way of background, on May 1, 2001, the Government...	Apr. 18, 2006	Case		34 35 36 S.Ct.
Examined by	13. U.S. v. Gooch ¶¶ 2006 WL 3780781, *3+ , D.D.C. Larry Gooch faces a possible death sentence for the alleged murders of Yolanda Miller and Calvin Cooper, which are Counts 126 and 128 of the Second Superseding Indictment...	Dec. 20, 2006	Case		17 34 35 S.Ct.
Examined by	14. U.S. v. Edelin ¶¶ 134 F.Supp.2d 59, 64+ , D.D.C. CRIMINAL JUSTICE - Discovery. Discovery was not available in capital murder case.	Mar. 09, 2001	Case		34 35 36 S.Ct.
Examined by	15. U.S. v. Cheever ¶¶ 423 F.Supp.2d 1181, 1187+ , D.Kan. CRIMINAL JUSTICE - Death Penalty. Federal Death Penalty Act does not deprive a defendant of presumption of innocence in violation of right to a fair trial.	Mar. 29, 2006	Case		34 35 36 S.Ct.
Examined by	16. U.S. v. Green ¶¶ 2008 WL 4000870, *8+ , W.D.Ky. This matter has come before the Court upon the Defendant's Motion to Declare the Federal Death Penalty Act Unconstitutional, Dismiss Aggravators, and Dismiss the Government's Death...	Aug. 26, 2008	Case		17 34 35 S.Ct.
Examined by	17. U.S. v. Coonce ¶¶ 2014 WL 1018081, *6+ , W.D.Mo. Now pending before the Court are several motions filed by Defendant Coonce relating to the superseding indictment, certain aspects of the Notice of Intent to Seek Death Penalty,...	Mar. 14, 2014	Case		34 35 S.Ct.
Examined by	18. United States v. Lujan ¶¶ 2008 WL 11359151, *12+ , D.N.M. On July 10, 2007, the grand jury returned the Third Superseding Indictment (Doc. 144) in this case, charging Defendants Larry Lujan, Kacey Lamunyon and Eugenio Medina with (1)...	June 26, 2008	Case		34 35 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	19. <u>U.S. v. Wilson</u>  2013 WL 3187036, *4+ , E.D.N.Y. Before the court are the parties' proposed preliminary jury instructions. For the reasons set forth below, the court will issue the attached preliminary jury charge. Defendant...	June 20, 2013	Case		2 10 25 S.Ct.
Examined by	20. <u>U.S. v. Williams</u>  2013 WL 1335599, *4+ , M.D.Pa. In this capital case, Defendant Ritz Williams moves the Court to strike the Government's amended notice of intent to seek the death penalty in its entirety (Doc. No. 705) or, in...	Mar. 29, 2013	Case		34 35 36 S.Ct.
Examined by	 21. <u>U.S. v. Llera Plaza</u>  179 F.Supp.2d 464, 486+ , E.D.Pa. CRIMINAL JUSTICE - Death Penalty. Federal Death Penalty Act's threshold mental state factors were not unconstitutionally vague.	Dec. 21, 2001	Case		34 35 36 S.Ct.
Examined by	22. <u>U.S. v. Montgomery</u>  10 F.Supp.3d 801, 809+ , W.D.Tenn. CRIMINAL JUSTICE - Death Penalty. Victim impact testimony from victims' coworkers was admissible in sentencing phase of capital murder prosecution.	Mar. 19, 2014	Case		5 6 35 S.Ct.
Examined by	 23. <u>Rivas v. Thaler</u> 2010 WL 1223130, *15+ , N.D.Tex. This case has been referred to the United States Magistrate Judge pursuant to Title 28 United States Code section 636(b). The Findings, Conclusions and Recommendation of the...	Jan. 22, 2010	Case		8 28 34 S.Ct.
Examined by	24. <u>Dorsey v. Quarterman</u> 2006 WL 2161650, *17+ , N.D.Tex. Petitioner Leon David Dorsey, sentenced to death for capital murder, petitions the Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, contending that his conviction...	July 31, 2006	Case		3 8 28 S.Ct.
Examined by	25. <u>Flores v. Cockrell</u> 2003 WL 1957131, *9+ , W.D.Tex. Defendant filed federal habeas corpus petition, seeking to attack his otherwise final state capital murder conviction and sentence of death. The District Court, Garcia, J., held...	Mar. 31, 2003	Case		1 3 28 S.Ct.
Examined by	26. <u>Hopkins v. Cockrell</u> 2001 WL 1167312, *17+ , N.D.Tex. After making an independent review of the pleadings, files and records in this case, and the findings, conclusions and recommendation of the United States Magistrate Judge, the...	Sep. 28, 2001	Case		8 28 34 S.Ct.
Examined by	27. <u>U.S. v. Caro</u>  483 F.Supp.2d 513, 521+ , W.D.Va. CRIMINAL JUSTICE - Death Penalty. Federal Death Penalty Act did not require proof beyond reasonable doubt that aggravating factors outweighed mitigating factors.	Apr. 11, 2007	Case		8 28 31 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	 28. State v. Gleason ” 329 P.3d 1102, 1142+ , Kan. CRIMINAL JUSTICE - Death Penalty. Failure to instruct that mitigating circumstances need not be proved beyond a reasonable doubt required vacation of death sentence.	July 18, 2014	Case		34 35 36 S.Ct.
Examined by	29. Winkler v. State ” 795 S.E.2d 686, 691+ , S.C. CRIMINAL JUSTICE - Counsel. Counsel was not ineffective for failing to object to court's refusal to state to jury consequences of failure to reach unanimity on sentencing.	Nov. 23, 2016	Case		10 11 25 S.Ct.
Declined to Extend by NEGATIVE	30. Davis v. Branker ” 305 Fed.Appx. 926, 940+ , 4th Cir.(N.C.) CRIMINAL JUSTICE - Habeas Corpus. Capital defendant's rights regarding mitigating and aggravating factors were not violated, precluding habeas relief.	Jan. 07, 2009	Case		34 35 36 S.Ct.
Distinguished by NEGATIVE	 31. Allen v. Woodford ” 395 F.3d 979, 1012+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Death Penalty. Error in counting the special circumstances was harmless.	Jan. 24, 2005	Case		17 34 35 S.Ct.
Distinguished by NEGATIVE	 32. State v. Peeler ” 857 A.2d 808, 867+ , Conn. CRIMINAL JUSTICE - Death Penalty. Application of principles of accessory liability to prove existence of aggravating factors did not violate Eighth Amendment.	Oct. 12, 2004	Case		1 2 28 S.Ct.
Distinguished by NEGATIVE	 33. Allen v. Woodford ” 366 F.3d 823, 856+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Counsel. Petitioner was not prejudiced by counsel's failure to present mitigating evidence.	May 06, 2004	Case		17 34 35 S.Ct.
Distinguished by NEGATIVE	 34. Morris v. Woodford 273 F.3d 826, 842+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Death Penalty. Typographical error in written penalty phase instruction warranted federal habeas relief.	Dec. 06, 2001	Case		17 28 31 S.Ct.
Discussed by	35. U.S. v. Gonzalez ” 570 F.3d 16, 21+ , 1st Cir.(R.I.) CRIMINAL JUSTICE - Instructions. Conspiracy instruction adequately conveyed requirement that defendant had personally and intentionally joined agreement.	June 24, 2009	Case		—
Discussed by	 36. U.S. v. Sampson ” 486 F.3d 13, 32+ , 1st Cir.(Mass.) CRIMINAL JUSTICE - Death Penalty. Reasonable doubt standard did not apply to weighing process under Federal Death Penalty Act.	May 07, 2007	Case		34 35 36 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	37. U.S. v. Padilla   415 F.3d 211, 221+ , 1st Cir.(Mass.) CRIMINAL JUSTICE - Sentencing. Erroneous delegation of authority to probation officer was subject to plain error review.	July 25, 2005	Case		25 28 31 S.Ct.
Discussed by	38. U.S. v. Al-Moayad   545 F.3d 139, 177+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Evidence. Erroneous admission of prejudicial evidence concerning bus passenger's experiences in terrorist attack was not harmless.	Oct. 02, 2008	Case		17 31 S.Ct.
Discussed by	39. U.S. v. Williams  399 F.3d 450, 456+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Sentencing. Remedy for unpreserved Booker error was remand for consideration of whether sentence would have been materially different.	Feb. 23, 2005	Case		14 17 31 S.Ct.
Discussed by	40. U.S. v. Gordon   291 F.3d 181, 191+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Sentencing. Error in grouping counts under the wrong provision was plain error which should be corrected.	May 30, 2002	Case		21 23 33 S.Ct.
Discussed by	41. United States v. Williams  666 Fed.Appx. 186, 194+ , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Evidence. Any error in excluding evidence of witness's prior years of prostitution in trial for sex trafficking was harmless error.	Dec. 16, 2016	Case		15 16 S.Ct.
Discussed by	42. U.S. v. Pelullo   399 F.3d 197, 221+ , 3rd Cir.(N.J.) CRIMINAL JUSTICE - Discovery. Documents seized from defendant's warehouse were not suppressed, as would violate Brady.	Feb. 25, 2005	Case		13 17 18 S.Ct.
Discussed by	43. U.S. v. Higgs   353 F.3d 281, 298+ , 4th Cir.(Md.) CRIMINAL JUSTICE - Death Penalty. "Multiple killings" aggravator could not be applied to murders committed before its adoption.	Dec. 22, 2003	Case		34 35 S.Ct.
Discussed by	44. U.S. v. Barnette   211 F.3d 803, 817+ , 4th Cir.(N.C.) CRIMINAL JUSTICE - Death Penalty. Capital defendant was entitled to rebut prosecution expert's diagnosis of defendant as a psychopath.	May 02, 2000	Case		28 31 35 S.Ct.
Discussed by	45. Young v. Davis  835 F.3d 520, 528+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Habeas Corpus. Failure to instruct jury about impact of single holdout juror on capital sentencing special issues was not contrary to clearly established federal...	Aug. 31, 2016	Case		7 8 9 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 46. <u>Blue v. Thaler</u> ” 665 F.3d 647, 669+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Texas death-row inmate failed to make prima facie mental retardation claim.	Dec. 22, 2011	Case		7 8 12 S.Ct.
Discussed by	47. <u>U.S. v. Diaz</u> ” 637 F.3d 592, 601+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Confrontation. Defendant's Confrontation Clause rights were not violated by limitations placed on cross-examinations.	Apr. 04, 2011	Case		21 23 24 S.Ct.
Discussed by	48. <u>U.S. v. Davis</u> ” 609 F.3d 663, 673+ , 5th Cir.(La.) CRIMINAL JUSTICE - Death Penalty. Prosecutor's remarks during summation did not affect murder defendant's substantial rights.	June 16, 2010	Case		34 35 36 S.Ct.
Discussed by	49. <u>Jackson v. Dretke</u> ” 181 Fed.Appx. 400, 412+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Jury. State's use of peremptory strikes against black venire members at capital murder trial did not indicate racial bias.	May 11, 2006	Case		3 8 S.Ct.
Discussed by	50. <u>U.S. v. Bourgeois</u> ” 423 F.3d 501, 507+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Federal Death Penalty Act's aggravators were not unconstitutionally overbroad or vague.	Aug. 25, 2005	Case		34 35 36 S.Ct.
Discussed by	 51. <u>U.S. v. Bernard</u> ” 299 F.3d 467, 477+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Evidence supported finding of aggravating factor in penalty phase of capital murder trial.	July 19, 2002	Case		34 35 36 S.Ct.
Discussed by	 52. <u>U.S. v. Taylor</u> 814 F.3d 340, 360+ , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Jury. District court did not abuse its discretion in declining to explicitly question juror about bias.	Feb. 11, 2016	Case		25 S.Ct.
Discussed by	 53. <u>U.S. v. Lawrence</u> ” 735 F.3d 385, 401+ , 6th Cir.(Ohio) CRIMINAL JUSTICE - Death Penalty. Non-statutory aggravators under Federal Death Penalty Act (FDPA) need not be submitted to a grand jury and charged in the indictment.	Oct. 22, 2013	Case		25 S.Ct.
Discussed by	 54. <u>U.S. v. Gabrion</u> ” 719 F.3d 511, 531+ , 6th Cir.(Mich.) CRIMINAL JUSTICE - Death Penalty. Murder's location in state that lacked death penalty could not count as mitigating factor in sentencing in capital trial.	May 28, 2013	Case		6 34 35 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 55. Williams v. Anderson ” 460 F.3d 789, 809+ , 6th Cir.(Ohio) CRIMINAL JUSTICE - Counsel. Capital murder defendant was prejudiced by counsel's deficient performance in not presenting mitigating sentencing evidence.	Aug. 28, 2006	Case		3 8 28 S.Ct.
Discussed by	 56. U.S. v. Barnett ” 398 F.3d 516, 536+ , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Sentencing. Prejudice could be presumed in determining whether treatment of Sentencing Guidelines as mandatory was plain error.	Feb. 16, 2005	Case		17 31 33 S.Ct.
Discussed by	 57. Davis v. Mitchell ” 318 F.3d 682, 687+ , 6th Cir.(Ohio) CRIMINAL JUSTICE - Death Penalty. Instructions in death penalty case on mitigating factors violated Eighth Amendment.	Feb. 04, 2003	Case		1 17 28 S.Ct.
Discussed by	 58. U.S. v. Lawuary ” 211 F.3d 372, 380+ , 7th Cir.(Ill.) CRIMINAL JUSTICE - Arrest. Probable cause existed for arrest of vehicle occupant.	May 01, 2000	Case		17 S.Ct.
Discussed by	 59. U.S. v. Purkey ” 428 F.3d 738, 757+ , 8th Cir.(Mo.) CRIMINAL JUSTICE - Jury. For-cause exclusion of potential juror based on her opposition to death penalty was warranted in capital murder trial.	Nov. 07, 2005	Case		34 35 36 S.Ct.
Discussed by	 60. U.S. v. Allen ” 247 F.3d 741, 758+ , 8th Cir.(Mo.) CRIMINAL JUSTICE - Death Penalty. Consideration of nonstatutory aggravating factors under FDPA is constitutional.	Apr. 12, 2001	Case		34 35 36 S.Ct.
Discussed by	 61. U.S. v. Paul ” 217 F.3d 989, 997+ , 8th Cir.(Ark.) CRIMINAL JUSTICE - Death Penalty. Intent requirement of the Federal Death Penalty Act was satisfied.	June 27, 2000	Case		17 28 34 S.Ct.
Discussed by	62. U.S. v. Chen Chiang Liu ” 631 F.3d 993, 999+ , 9th Cir.(Nev.) CRIMINAL JUSTICE - Speedy Trial. Speedy Trial Act clock restarted on date superseding indictment was filed.	Jan. 21, 2011	Case		21 22 23 S.Ct.
Discussed by	63. U.S. v. Goldbaum ” 319 Fed.Appx. 663, 665+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Witnesses. Deportation of witness did not prejudice defendant's criminal case, so as to violate Fifth and Sixth Amendments.	Mar. 18, 2009	Case		17 23 31 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 64. U.S. v. Fernandez 388 F.3d 1199, 1247+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Racketeering. Indictment adequately pleaded interstate nexus required by RICO.	Oct. 27, 2004	Case		17 18 31 S.Ct.
Discussed by	 65. U.S. v. Johnson  297 F.3d 845, 866+ , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Trial. Denial of motions to sever was not manifestly prejudicial.	July 12, 2002	Case		17 18 31 S.Ct.
Discussed by	66. U.S. v. Mendoza-Paz  286 F.3d 1104, 1113+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Witnesses. Admission of purportedly improper lay witness opinion was not plain error.	Apr. 10, 2002	Case		23 S.Ct.
Discussed by	 67. U.S. v. Sanchez-Cervantes 282 F.3d 664, 668+ , 9th Cir.(Or.) CRIMINAL JUSTICE - Postconviction Relief. Apprendi did not apply retroactively to defendant's motion to vacate.	Mar. 01, 2002	Case		8 17 S.Ct.
Discussed by	 68. Kleve v. Hill  185 F.3d 1009, 1015+ , 9th Cir.(Cal.) Petitioner filed petition for writ of habeas corpus, challenging his state court conviction for conspiracy to commit second-degree murder. The United States District Court for the...	July 30, 1999	Case		26 28 S.Ct.
Discussed by	 69. U.S. v. Fields  516 F.3d 923, 945+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Jurisdiction. United States had concurrent territorial jurisdiction to prosecute defendant under the federal murder statute for murdering victims on national...	Feb. 25, 2008	Case		34 35 36 S.Ct.
Discussed by	70. U.S. v. Lettig  209 Fed.Appx. 832, 840+ , 10th Cir.(Utah) CRIMINAL JUSTICE - Robbery. Accomplice testimony was legally and factually sufficient to support conviction of armed bank robbery.	Dec. 26, 2006	Case		17 23 S.Ct.
Discussed by	71. U.S. v. Hemsley  160 Fed.Appx. 804, 807+ , 10th Cir.(Utah) CRIMINAL JUSTICE - Sentencing. District court's use of 33 percent factor for converting iodine to methamphetamine was not plain error.	Dec. 30, 2005	Case		21 23 33 S.Ct.
Discussed by	 72. U.S. v. Gonzalez-Huerta 403 F.3d 727, 733+ , 10th Cir.(N.M.) CRIMINAL JUSTICE - Sentencing. Non-constitutional Booker error did not rise to level of plain error.	Apr. 08, 2005	Case		21 31 33 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	73. U.S. v. Miller  38 Fed.Appx. 517, 519+ , 10th Cir.(N.M.) CRIMINAL JUSTICE - Sentencing. Enhancement based on amendment to Sentencing Guidelines was ex post facto violation.	Mar. 21, 2002	Case		23 S.Ct.
Discussed by	 74. Neill v. Gibson  278 F.3d 1044, 1053+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Death Penalty. Prosecution could comment on capital defendant's homosexuality in disputing that defendant acted under extreme emotional disturbance.	Dec. 07, 2001	Case		3 7 8 S.Ct.
Discussed by	 75. U.S. v. Price 265 F.3d 1097, 1107+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Sentencing. Sentencing for drug offenses under Guideline requiring consecutive sentences was mandatory.	Sep. 11, 2001	Case		17 31 S.Ct.
Discussed by	 76. Neill v. Gibson  263 F.3d 1184, 1191+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Death Penalty. Prosecution could make closing argument comments on capital defendant's homosexuality.	Aug. 27, 2001	Case		3 7 8 S.Ct.
Discussed by	 77. U.S. v. Chanthadara  230 F.3d 1237, 1262+ , 10th Cir.(Kan.) CRIMINAL JUSTICE - Death Penalty. Questionnaire responses did not justify juror's dismissal in capital proceeding.	Nov. 01, 2000	Case		34 35 36 S.Ct.
Discussed by	 78. U.S. v. Rodriguez 398 F.3d 1291, 1298+ , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. Booker error in extra-verdict enhancement of sentence did not constitute plain error.	Feb. 04, 2005	Case		17 31 33 S.Ct.
Discussed by	79. U.S. v. Lee 2008 WL 4079315, *40+ , E.D.Ark. Before the Court is Petitioner Daniel Lewis Lee's Motion to Set Aside Judgment under 28 U.S.C. § 2255. The United States opposes any post-conviction relief. Additional relevant...	Aug. 28, 2008	Case		—
Discussed by	 80. U.S. v. Diaz  2007 WL 656831, *12+ , N.D.Cal. In this criminal gang prosecution, the government has filed notices of intent to seek the death penalty against defendants Emile Fort and Edgar Diaz. Defendants have moved to...	Feb. 28, 2007	Case		34 35 S.Ct.
Discussed by	 81. U.S. v. Mills  446 F.Supp.2d 1115, 1120+ , C.D.Cal. CRIMINAL JUSTICE - Sentencing. Admission during sentencing phase of capital murder trial of testimonial statements in PSR violated Confrontation Clause.	Aug. 17, 2006	Case		6 34 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	82. U.S. v. Cooper   91 F.Supp.2d 90, 98+ , D.D.C. Defendant was indicted for racketeering acts of robbery, murder, conspiracy and firearm offenses, including killing of three persons in coffee house. Government filed intent to...	Apr. 14, 2000	Case		34 35 S.Ct.
Discussed by	83. Walls v. McNeil   2009 WL 3187066, *48+ , N.D.Fla. CRIMINAL JUSTICE - Death Penalty. A habeas petitioner's death sentence made pursuant to Florida's death penalty scheme was not unconstitutional.	Sep. 30, 2009	Case		35 36 S.Ct.
Discussed by	84. U.S. v. Johnson   915 F.Supp.2d 958, 983+ , N.D.Iowa CRIMINAL JUSTICE - Death Penalty. Jury would only be permitted to consider sentencing defendant to death or life without parole.	Jan. 16, 2013	Case		2 25 31 S.Ct.
Discussed by	85. Johnson v. U.S.   860 F.Supp.2d 663, 686+ , N.D.Iowa Background: Defendant was charged with multiple counts of capital murder for aiding and abetting her boyfriend in killings of three adults and two children who were witnesses to...	Mar. 22, 2012	Case		12 18 S.Ct.
Discussed by	86. U.S. v. Johnson   403 F.Supp.2d 721, 885+ , N.D.Iowa CRIMINAL JUSTICE - Death Penalty. Imposition of death penalty for aiding and abetting killings for which principal received life sentence was constitutional.	Dec. 16, 2005	Case		28 29 S.Ct.
Discussed by	87. U.S. v. Davis   2003 WL 1873088, *7+ , E.D.La. Before the Court is the motion of defendant Johnny Davis to strike nonstatutory aggravating factors from the government's Notice of Intent to Seek the Death Penalty and to exclude...	Apr. 10, 2003	Case		34 35 36 S.Ct.
Discussed by	88. U.S. v. Sampson   335 F.Supp.2d 166, 186+ , D.Mass. CRIMINAL JUSTICE - Mental Capacity. Government could conduct pre-guilt mental testing on capital murder defendant.	Aug. 26, 2004	Case		1 3 8 S.Ct.
Discussed by	89. U.S. v. Sampson   275 F.Supp.2d 49, 84+ , D.Mass. CRIMINAL JUSTICE - Death Penalty. Risk of executing innocent individuals did not render Federal Death Penalty Act unconstitutional.	Aug. 11, 2003	Case		17 S.Ct.
Discussed by	90. U.S. v. Eye   2008 WL 732179, *1+ , W.D.Mo. Pending are several motions filed by Defendants attacking various aspects of the Government's attempt to seek the death penalty. The Court's rulings and reasoning follow. Defendant...	Mar. 17, 2008	Case		5 6 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	91. <u>Davis v. Polk</u>  2007 WL 2898711, *10+ , W.D.N.C. This matter is before the Court upon Phillip Antwan Davis's Petition for Writ of Habeas Corpus (sometimes hereinafter "Petition") filed pursuant to 28 U.S.C. § 2254 on February...	Sep. 28, 2007	Case		34 S.Ct.
Discussed by	92. <u>U.S. v. Rodriguez</u>  2007 WL 466752, *59+ , D.N.D. Before this Court is Defendant's Motion for a New Trial (doc. # 635). The United States has offered a brief in opposition (doc. # 644) to this motion. Defendant has additionally...	Feb. 12, 2007	Case		17 28 34 S.Ct.
Discussed by	93. <u>Santos v. Rock</u>  2013 WL 2896979, *5+ , S.D.N.Y. Petitioner filed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 seeking relief on the following grounds: 1) that he was denied effective assistance of trial...	June 13, 2013	Case		26 27 S.Ct.
Discussed by	94. <u>Roa v. Portuondo</u>  548 F.Supp.2d 56, 66+ , S.D.N.Y. CRIMINAL JUSTICE - Habeas Corpus. Counsel was not ineffective for failing to challenge pre-indictment delay in arresting petitioner.	Apr. 22, 2008	Case		24 S.Ct.
Discussed by	95. <u>U.S. v. Bin Laden</u>  126 F.Supp.2d 290, 298+ , S.D.N.Y. CRIMINAL JUSTICE - Death Penalty. "Death during commission of another crime" aggravating factor for death penalty was non-duplicative.	Jan. 02, 2001	Case		34 35 36 S.Ct.
Discussed by	96. <u>Sheppard v. Bagley</u>  604 F.Supp.2d 1003, 1084+ , S.D.Ohio CRIMINAL JUSTICE - Death Penalty. State court did not err in independently reweighing aggravating and mitigating factors to cure prejudice from closing arguments.	Mar. 04, 2009	Case		31 S.Ct.
Discussed by	97. <u>Fears v. Bagley</u> 2008 WL 2782888, *71+ , S.D.Ohio Before the Court are Petitioner's Objections to the Magistrate Judge's Report and Recommendation. (Doc. 117) In his Report (Doc. 114), the Magistrate Judge recommends that the...	July 15, 2008	Case		28 31 S.Ct.
Discussed by	 98. <u>U.S. v. Henderson</u>  485 F.Supp.2d 831, 855+ , S.D.Ohio CRIMINAL JUSTICE - Death Penalty. Federal Death Penalty Act (FDPA) was constitutional.	May 04, 2007	Case		34 35 S.Ct.
Discussed by	 99. <u>Landrum v. Anderson</u>  2005 WL 3965399, *62+ , S.D.Ohio This capital habeas corpus case is before the Court for decision on the merits after an evidentiary hearing. Petitioner Lawrence Landrum was convicted by a Ross County jury on...	Nov. 01, 2005	Case		8 11 28 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 100. <u>U.S. v. Mayhew</u> ” 380 F.Supp.2d 936, 945+ , S.D.Ohio CRIMINAL JUSTICE - Death Penalty. Bifurcation of sentencing phase of death penalty case was warranted.	Aug. 01, 2005	Case		6 35 S.Ct.
Discussed by	 101. <u>Henderson v. Collins</u> 101 F.Supp.2d 866, 914+ , S.D.Ohio CRIMINAL JUSTICE - Death Penalty. Instruction requiring jury to continue death sentence deliberations was coercive.	Aug. 04, 1999	Case		3 8 12 S.Ct.
Discussed by	 102. <u>Malone v. Royal</u> ” 2016 WL 6956646, *23+ , W.D.Okla. Petitioner, a state court prisoner, has filed a petition for writ of habeas corpus seeking relief pursuant to 28 U.S.C. § 2254. Doc. 24. Petitioner challenges the conviction...	Nov. 28, 2016	Case		35 36 S.Ct.
Discussed by	103. <u>Grant v. Workman</u> ” 2010 WL 5069853, *20+ , N.D.Okla. This matter comes before the Court on a Petition for Writ of Habeas Corpus (Dkt.# 12) filed by Oklahoma death row inmate John Marion Grant, pursuant to 28 U.S.C. § 2254. Grant, who...	Dec. 02, 2010	Case		—
Discussed by	104. <u>United States v. Con-ui</u> ” 2017 WL 783437, *13+ , M.D.Pa. Presently before me are multiple motions in limine filed by Defendant Jessie Con-ui (Docs. 922, 934, 950). For the reasons that follow: (1) Mr. Con-ui's Motion in Limine to Exclude...	Mar. 01, 2017	Case		35 36 S.Ct.
Discussed by	105. <u>United States v. Con-Ui</u> ” 2016 WL 9331115, *4+ , M.D.Pa. Presently before me is Defendant, Jessie Con-Ui's ("Defendant") Motion, with Incorporated Memorandum of Law, to Strike the Notice of Intent to Seek the Death Penalty, for a...	Jan. 28, 2016	Case		34 35 S.Ct.
Discussed by	106. <u>U.S. v. Solomon</u> ” 513 F.Supp.2d 520, 535+ , W.D.Pa. CRIMINAL JUSTICE - Death Penalty. Proposed aggravating factor in death penalty case for "substantial planning and premeditation" was not overbroad or vague.	June 26, 2007	Case		—
Discussed by	107. <u>U.S. v. Pleau</u> 2013 WL 1673109, *1+ , D.R.I. Before the Court are Defendant Jason Pleau's Motion to Dismiss the Capital Aspects of the Indictment (ECF No. 164) and his Motion to Strike Aggravating Factors or in the...	Apr. 17, 2013	Case		35 S.Ct.
Discussed by	108. <u>Hall v. Bell</u> ” 2010 WL 908933, *33+ , E.D.Tenn. CRIMINAL JUSTICE - Counsel. Counsel was not ineffective for failing to obtain an expert in fire origins and a qualified medical examiner to investigate how a fire started.	Mar. 12, 2010	Case		34 35 36 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	109. <u>U.S. v. Haynes</u> 265 F.Supp.2d 914, 921+ , W.D.Tenn. CRIMINAL JUSTICE - Instructions. Jury not required to impose death penalty.	May 15, 2003	Case		3 8 17 S.Ct.
Discussed by	110. <u>Rodriguez v. Davis</u> 2016 WL 4098339, *35+ , N.D.Tex. Rosendo Rodriguez, III ("Rodriguez") petitions for a writ of habeas corpus under 28 U.S.C. § 2254, contending that his state conviction and death sentence are unconstitutional. The...	Aug. 01, 2016	Case		10 S.Ct.
Discussed by	111. <u>Young v. Stephens</u> 2015 WL 4276196, *23+ , W.D.Tex. Petitioner Christopher Anthony Young filed this federal habeas corpus action pursuant to 28 U.S.C. Section 2254 challenging his 2006 Bexar County conviction for capital murder and...	July 13, 2015	Case		11 S.Ct.
Discussed by	112. <u>Davila v. Stephens</u> 2015 WL 1808689, *28+ , N.D.Tex. Erick Daniel Davila ("Davila") petitions the Court for a writ of habeas corpus, contending that his conviction and death sentence are unconstitutional because (1) the evidence...	Apr. 21, 2015	Case		7 8 9 S.Ct.
Discussed by	113. <u>Chanthakoummane v. Director, TDCJ-CID</u> 2015 WL 1288443, *35+ , E.D.Tex. Petitioner Kosoul Chanthakoummane, an inmate confined in the Texas prison system, filed the above-styled and numbered petition for a writ of habeas corpus pursuant to 28 U.S.C. §...	Mar. 20, 2015	Case		8 S.Ct.
Discussed by	114. <u>Garcia v. Director, TDCJ-CID</u> 73 F.Supp.3d 693, 777+ , E.D.Tex. CRIMINAL JUSTICE - Habeas Corpus. Petitioner convicted of capital murder was not entitled to federal habeas relief on claim that police obtained confession in violation of Miranda.	Nov. 10, 2014	Case		8 S.Ct.
Discussed by	115. <u>Young v. Stephens</u> 2014 WL 509376, *66+ , W.D.Tex. Petitioner Clinton Lee Young filed this federal habeas corpus action pursuant to Title 28 U.S.C. Section 2254 challenging his Midland County conviction for capital murder and...	Feb. 10, 2014	Case		11 S.Ct.
Discussed by	116. <u>Garza v. Thaler</u> 909 F.Supp.2d 578, 680+ , W.D.Tex. CRIMINAL JUSTICE - Habeas Corpus. State prisoner was not entitled to federal habeas relief.	Dec. 18, 2012	Case		11 S.Ct.
Discussed by	117. <u>Pruett v. Thaler</u> 2010 WL 11425062, *2+ , S.D.Tex. This is a petition for a writ of habeas corpus by a state prisoner under 28 U.S.C. § 2254. The conviction was for capital murder; the punishment death by lethal injection. ...	Aug. 10, 2010	Case		3 8 9 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	118. <u>Blanton v. Quarterman</u> 489 F.Supp.2d 621, 644+ , W.D.Tex. CRIMINAL JUSTICE - Instructions. Inclusion of reasonable doubt language in guilt-innocence phase jury instructions was harmless.	June 01, 2007	Case		31 S.Ct.
Discussed by	119. <u>Turner v. Dretke</u> 2006 WL 694945, *14+ , N.D.Tex. Petitioner Carlton Akee Turner ("Turner"), convicted and sentenced to death for capital murder, petitions the court for a writ of habeas corpus based on seven claims. The court...	Mar. 20, 2006	Case		3 8 9 S.Ct.
Discussed by	120. <u>Kimmel v. Dretke</u> 2005 WL 1959074, *19+ , W.D.Tex. Clifford Allan Kimmel files this federal habeas corpus action pursuant to 28 U.S.C. section 2254 challenging his February 2000, Bexar County convictions on multiple counts of...	Aug. 16, 2005	Case		8 9 11 S.Ct.
Discussed by	121. <u>Prieto v. Dretke</u> 386 F.Supp.2d 767, 807+ , W.D.Tex. CRIMINAL JUSTICE - Habeas Corpus. Equitable tolling did not apply to excuse habeas petitioner's untimely filing.	July 07, 2005	Case		6 8 S.Ct.
Discussed by	122. <u>Brown v. Dretke</u> 2004 WL 2793266, *13+ , W.D.Tex. Petitioner Mauriceo Mashawn Brown seeks review of his May, 1997 conviction for capital murder and sentence of death through this habeas corpus action pursuant to 28 U.S.C. § 2254....	Dec. 03, 2004	Case		3 8 S.Ct.
Discussed by	123. <u>Hinojosa v. Dretke</u> 2004 WL 2434353, *23+ , W.D.Tex. Petitioner Richard Hinojosa filed this federal habeas corpus action pursuant to Title 28 U.S.C. Section 2254 seeking review of his July, 1997 Bexar County conviction for capital...	Sep. 30, 2004	Case		8 28 S.Ct.
Discussed by	124. <u>Bagwell v. Cockrell</u> 2003 WL 22723006, *31+ , W.D.Tex. Petitioner Dennis Wayne Bagwell filed this federal habeas corpus action pursuant to Title 28 U.S.C. Section 2254 seeking review of his November, 1996, conviction for capital murder...	Aug. 19, 2003	Case		8 S.Ct.
Discussed by	125. <u>U.S. v. Regan</u> 228 F.Supp.2d 742, 747+ , E.D.Va. CRIMINAL JUSTICE - Death Penalty. Statutory aggravating factor was not constitutionally overbroad or vague.	Oct. 25, 2002	Case		34 35 36 S.Ct.
Discussed by	126. <u>U.S. v. Fell</u> 372 F.Supp.2d 753, 764+ , D.Vt. CRIMINAL JUSTICE - Mental Capacity. Government was entitled to have mental health expert interview capital defendant without defense counsel present.	Apr. 07, 2005	Case		34 35 36 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 127. <u>Medina-Villegas v. United States</u> ” 2016 WL 4079458, *3+ , D.Puerto Rico Before the court are Hernando Medina-Villegas' (hereinafter, "petitioner") Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255, and the Government's...	July 29, 2016	Case		25 31 S.Ct.
Discussed by	128. <u>United States v. Casey</u> ” 2013 WL 12190568, *3+ , D.Puerto Rico In a Superseding Indictment released by the Grand Jury on February 14, 2007, Lashaun Casey ("defendant") was charged with the knowing, wilful, intentional and unlawful taking of a...	Jan. 30, 2013	Case		34 35 S.Ct.
Discussed by	 129. <u>U.S. v. Roman</u> ” 371 F.Supp.2d 36, 41+ , D.Puerto Rico CRIMINAL JUSTICE - Sentencing. Evidence was sufficient to support pecuniary gain murder aggravator in sentencing of armored truck robbers.	May 19, 2005	Case		34 35 36 S.Ct.
Discussed by	 130. <u>People v. Waidla</u> ” 94 Cal.Rptr.2d 396, 434+ , Cal. CRIMINAL JUSTICE - Homicide. Trial court was not required to instruct jury on consequence of deadlocking at penalty phase.	Apr. 06, 2000	Case		28 S.Ct.
Discussed by	131. <u>Webb v. Warden</u> ” 2011 WL 724774, *13+ , Conn.Super. CRIMINAL JUSTICE - Counsel. Jury understood that it was to find mitigating factors unanimously, and failure to raise a Mills claim thus did not prejudice defendant or constitute...	Jan. 25, 2011	Case		36 S.Ct.
Discussed by	132. <u>Havard v. State</u> 988 So.2d 322, 344+ , Miss. CRIMINAL JUSTICE - Counsel. Defense counsel did not render ineffective assistance in prosecution for capital murder.	May 22, 2008	Case		34 35 36 S.Ct.
Discussed by	 133. <u>State v. Erickstad</u> ” 620 N.W.2d 136, 141+ , N.D. CRIMINAL JUSTICE - Evidence. Evidence of value derived from website of used car price guide was admissible under hearsay rule exception.	Dec. 07, 2000	Case		14 17 S.Ct.
Discussed by	 134. <u>State v. Addison</u> ” 87 A.3d 1, 209+ , N.H. CRIMINAL JUSTICE - Death Penalty. Death penalty did not violate New Hampshire's prohibition against cruel or punishment.#	Nov. 06, 2013	Case		6 35 S.Ct.
Discussed by	135. <u>State v. Troxell</u> ” 85 A.3d 408, 420+ , N.J.Super.A.D. CRIMINAL JUSTICE - Homicide. Defendant was not entitled to non-unanimity instruction regarding factor that made him eligible for life without parole.	Feb. 13, 2014	Case		8 12 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	 136. <u>Com. v. Lesko</u>  15 A.3d 345, 403+ , Pa. CRIMINAL JUSTICE - Postconviction Relief. Defendant's right to first-petition PCRA review was necessarily confined to that part of final judgment which was disturbed by habeas...	Feb. 24, 2011	Case		35 S.Ct.
Discussed by	137. <u>Hamilton v. State</u>  2004 WL 3094382, *4+ , Tex.Crim.App. Background: Defendant was convicted in the trial court, Harris County, on his guilty plea to capital murder and was sentenced to death. Defendant appealed. Holdings: The Court of...	Oct. 13, 2004	Case		3 7 8 S.Ct.
Discussed by	 138. <u>Guam v. Jones</u>  2006 WL 2949259, *6+ , Guam Terr. [1] Defendant-Appellant Edward Bonham Stover Jones II appeals from his conviction on the charges of Money Laundering and Continuing Criminal Enterprise (CCE). Jones argues on...	Oct. 17, 2006	Case		24 27 28 S.Ct.
Declined to Extend by 	139. <u>Com. v. Ballard</u>  80 A.3d 380, 409+ , Pa. CRIMINAL JUSTICE - Death Penalty. Death sentences received by defendant for stabbing to death four victims was not product of passion, prejudice, or other arbitrary factor.	Nov. 21, 2013	Case		25 S.Ct.
Distinguished by 	140. <u>U.S. v. Park</u> 505 Fed.Appx. 186, 188 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Conspiracy. Evidence established defendant's intent regarding conspiracy to defraud the United States.	Nov. 28, 2012	Case		21 S.Ct.
Distinguished by 	 141. <u>Stoltie v. California</u> 501 F.Supp.2d 1252, 1266+ , C.D.Cal. CRIMINAL JUSTICE - Habeas Corpus. Analogy in a reasonable doubt instruction violated defendant's due process rights.	June 21, 2007	Case		27 28 S.Ct.
Distinguished by 	 142. <u>U.S. v. Patterson</u> 215 F.3d 776, 781 , 7th Cir.(Ill.) CRIMINAL JUSTICE - Weapons. Exchange of weapons for police protection by defendants selling drugs was illegal "use of a firearm."	June 01, 2000	Case		36 S.Ct.
Cited by	 143. <u>Husky Intern. Electronics, Inc. v. Ritz</u>  136 S.Ct. 1581, 1590 , U.S. BANKRUPTCY - Discharge. False representation is not necessary to trigger "actual fraud" nondischargeability provision.	May 16, 2016	Case		19 S.Ct.
Cited by	 144. <u>Smith v. Spisak</u> 130 S.Ct. 676, 684 , U.S. CRIMINAL JUSTICE - Death Penalty. Instructions did not unconstitutionally require unanimity on mitigating circumstances.	Jan. 12, 2010	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 145. <u>General Dynamics Land Systems, Inc. v. Cline</u> ” 124 S.Ct. 1236, 1238+ , U.S. LABOR AND EMPLOYMENT - Discrimination. Employer did not violate ADEA by eliminating retiree health benefits plan for workers under 50.	Feb. 24, 2004	Case		19 S.Ct.
Cited by	 146. <u>Nguyen v. U.S.</u> ” 123 S.Ct. 2130, 2139 , U.S. CRIMINAL JUSTICE - Appeals. Judgment of improperly constituted Court of Appeals was invalid.	June 09, 2003	Case		22 S.Ct.
Cited by	147. <u>United States v. Gordon</u> 875 F.3d 26, 31 , 1st Cir.(Mass.) CRIMINAL JUSTICE - Homicide. As matter of first impression in First Circuit, unit of prosecution under murder-for-hire statute was single plot to murder single individual.	Nov. 07, 2017	Case		33 S.Ct.
Cited by	148. <u>United States v. Latorre-Cacho</u> ” 874 F.3d 299, 314+ , 1st Cir.(Puerto Rico) CRIMINAL JUSTICE - Racketeering. Clear and obvious error in oral jury instructions that "racketeering activity" included "firearms" affected defendant's due process rights.	Oct. 25, 2017	Case		15 33 S.Ct.
Cited by	149. <u>United States v. Bramley</u> 847 F.3d 1, 7+ , 1st Cir.(Me.) CRIMINAL JUSTICE - Sentencing. Sentencing court's brief, ex parte conversations with probation officer during sentencing did not amount to plain error.	Jan. 26, 2017	Case		33 S.Ct.
Cited by	150. <u>U.S. v. Dzhanikyan</u> ” 808 F.3d 97, 103 , 1st Cir.(Mass.) CRIMINAL JUSTICE - Extortion and Threats. Evidence was insufficient to establish agreement to defer payment in prosecution for using extortionate means to collect extension of...	Dec. 11, 2015	Case		26 S.Ct.
Cited by	151. <u>U.S. v. Colon</u> ” 744 F.3d 752, 757 , 1st Cir.(R.I.) CRIMINAL JUSTICE - Instructions. District court did not commit plain error in instructing jury as to weight it was to give to drug defendant's confessions.	Feb. 26, 2014	Case		26 S.Ct.
Cited by	152. <u>U.S. v. Rodriguez</u> 735 F.3d 1, 13 , 1st Cir.(Puerto Rico) CRIMINAL JUSTICE - Drugs. Rational trier of fact could have concluded that defendant had possessed pistol during and in furtherance of drug conspiracy.	Aug. 16, 2013	Case		33 S.Ct.
Cited by	153. <u>Gove v. Career Systems Development Corp.</u> ” 689 F.3d 1, 12 , 1st Cir.(Me.) LABOR AND EMPLOYMENT - Arbitration. Arbitration clause in online job application was ambiguous in its coverage of applicants who were not hired.	July 17, 2012	Case		30 S.Ct.

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Cited by	154. U.S. v. Bunchan 626 F.3d 29, 34 , 1st Cir.(Mass.) CRIMINAL JUSTICE - Obstructing Justice. District court's reference to obstruction of justice did not amend the solicitation indictment.	Nov. 24, 2010	Case		26 28 S.Ct.
Cited by	 155. U.S. v. Catalan-Roman ” 585 F.3d 453, 460 , 1st Cir.(Puerto Rico) CRIMINAL JUSTICE - Conspiracy. District court did not abuse its discretion by quashing defendant's subpoena for tax records.	Oct. 23, 2009	Case		17 S.Ct.
Cited by	 156. U.S. v. Garcia-Pastrana ” 584 F.3d 351, 382+ , 1st Cir.(Puerto Rico) CRIMINAL JUSTICE - Embezzlement and Conversion. Evidence established that transactions at issue involved funds of a health care benefit program.	Oct. 20, 2009	Case		26 28 S.Ct.
Cited by	 157. U.S. v. Hebshie 549 F.3d 30, 44 , 1st Cir.(Mass.) CRIMINAL JUSTICE - Fraud. Insurer's reservation-of-rights letter was sufficient to satisfy criminal mail fraud's mailing requirement.	Dec. 04, 2008	Case		33 S.Ct.
Cited by	158. U.S. v. Griffin 524 F.3d 71, 80 , 1st Cir.(Mass.) CRIMINAL JUSTICE - Sentencing. Time limit on correction of sentences in district court was jurisdictional.	Apr. 18, 2008	Case		26 S.Ct.
Cited by	159. U.S. v. Fisher 494 F.3d 5, 9+ , 1st Cir.(Mass.) CRIMINAL JUSTICE - Homicide. Murder of cooperating federal witness jailed in Canada would have violated federal law for purposes of murder-for-hire law.	July 13, 2007	Case		17 18 31 S.Ct.
Cited by	 160. U.S. v. Turbides-Leonardo 468 F.3d 34, 40 , 1st Cir.(Puerto Rico) CRIMINAL JUSTICE - Sentencing. Imposition of 48-month prison sentence was reasonable for defendant convicted of illegal reentry after deportation.	Nov. 14, 2006	Case		33 S.Ct.
Cited by	 161. U.S. v. Potter 463 F.3d 9, 18 , 1st Cir.(R.I.) CRIMINAL JUSTICE - Fraud. Evidence supported convictions for wire fraud, and conspiracy to commit wire fraud.	Sep. 08, 2006	Case		16 S.Ct.
Cited by	 162. U.S. v. Green ” 407 F.3d 434, 441+ , 1st Cir.(Mass.) CRIMINAL JUSTICE - Death Penalty. Separate guilt and penalty phase juries were not allowable under Death Penalty Act.	May 12, 2005	Case		1 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	163. U.S. v. Bailey  405 F.3d 102, 110+ , 1st Cir.(Mass.) CRIMINAL JUSTICE - Sentencing. Remand for resentencing under advisory Guidelines system was not warranted.	May 03, 2005	Case		26 S.Ct.
Cited by	164. U.S. v. Sabetta 373 F.3d 75, 80 , 1st Cir.(R.I.) CRIMINAL JUSTICE - Jury. Court's failure to allow counsel to suggest rejoinder before answering jury question was harmless.	June 24, 2004	Case		31 S.Ct.
Cited by	 165. U.S. v. Callipari 368 F.3d 22, 41 , 1st Cir.(R.I.) CRIMINAL JUSTICE - Confrontation. "Blame the victim" cross-examination was properly limited in prosecution for wire fraud/conspiracy.	May 17, 2004	Case		17 S.Ct.
Cited by	 166. U.S. v. Huddleston 194 F.3d 214, 220 , 1st Cir.(Me.) After he was convicted by jury of attempted possession of cocaine with intent to distribute and conspiracy to distribute, defendant moved for new trial. The United States District...	Oct. 19, 1999	Case		20 S.Ct.
Cited by	 167. U.S. v. Rivera 799 F.3d 180, 183+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Prostitution. Excluding evidence of victims' prior work in sex industry did not violate Sixth Amendment.	Aug. 25, 2015	Case		—
Cited by	 168. U.S. v. Aleynikov  676 F.3d 71, 80 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Computer Crimes. National Stolen Property Act (NSPA) did not criminalize theft of intangible things.	Apr. 11, 2012	Case		19 S.Ct.
Cited by	169. U.S. v. Whitten  610 F.3d 168, 203+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Trial. Government violated defendant's constitutional rights by using his demand for trial against him.	June 30, 2010	Case		8 28 S.Ct.
Cited by	170. U.S. v. Leonard 350 Fed.Appx. 480, 482 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Securities. Trial evidence did not amount to constructive amendment of indictment in prosecution for securities fraud and conspiracy.	Oct. 02, 2009	Case		17 S.Ct.
Cited by	171. U.S. v. Dhafir 342 Fed.Appx. 702, 705 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Victim Compensation. State Medicaid restitution fund constituted "victim" of fraudulent scheme under Mandatory Victims Restitution Act (MVRA).	Aug. 18, 2009	Case		17 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 172. U.S. v. Triumph Capital Group, Inc. 544 F.3d 149, 171 , 2nd Cir.(Conn.) CRIMINAL JUSTICE - Bribery. Failure to disclose investigating agent's notes which provided exculpatory version of events violated Brady in bribery and wire fraud prosecution.	Sep. 25, 2008	Case		26 28 S.Ct.
Cited by	 173. U.S. v. Dupes 513 F.3d 338, 343 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Double Jeopardy. Conditions of supervised release that related to defendant's prior misconduct did not violate Double Jeopardy Clause.	Jan. 09, 2008	Case		23 S.Ct.
Cited by	174. U.S. v. Contreras 247 Fed.Appx. 293, 295 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Taxes. The evidence was sufficient to support a conviction for abetting the filing of fraudulent income tax returns.	Sep. 18, 2007	Case		17 S.Ct.
Cited by	 175. Betancourt v. Bloomberg  448 F.3d 547, 558 , 2nd Cir.(N.Y.) CIVIL RIGHTS - Due Process. Code provision forbidding movable property from being left in public areas was not unconstitutionally vague.	May 18, 2006	Case		19 S.Ct.
Cited by	 176. U.S. v. Garcia  413 F.3d 201, 225 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Witnesses. Case agent's opinion that defendant was involved in drug conspiracy was not admissible lay opinion testimony.	June 21, 2005	Case		31 S.Ct.
Cited by	 177. U.S. v. Zedner 401 F.3d 36, 51+ , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Speedy Trial. The seven-year delay between the defendant's indictment and trial did not violate the Sixth Amendment's Speedy Trial Clause.	Mar. 08, 2005	Case		28 S.Ct.
Cited by	178. U.S. v. Ortiz-Zayas 110 Fed.Appx. 181, 182 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Sentencing. Sentencing Guidelines required consecutive sentences for conspiracy to illegally deal firearms and substantive count.	Sep. 27, 2004	Case		—
Cited by	 179. U.S. v. Molina  356 F.3d 269, 277 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Sentencing. Showing of exculpatory value was required for disclosure of non-testifying codefendant's presentence report.	Jan. 20, 2004	Case		23 S.Ct.
Cited by	 180. U.S. v. Crowley  318 F.3d 401, 412 , 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Confrontation. Issues relating to victim's credibility could not be explored despite good faith basis to do so.	Jan. 31, 2003	Case		15 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	181. <u>U.S. v. Keigue</u> ¶ 318 F.3d 437, 442, 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Sentencing. Defendant established "plain error" with regard to sentence he received.	Jan. 31, 2003	Case		23 S.Ct.
Cited by	182. <u>U.S. v. Morissett</u> 49 Fed.Appx. 334, 336, 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Obstructing Justice. Evidence was sufficient to support conviction of witness tampering.	Oct. 22, 2002	Case		—
Cited by	183. <u>U.S. v. Sofsky</u> 287 F.3d 122, 125+, 2nd Cir.(N.Y.) CRIMINAL JUSTICE - Obscenity and Pornography. Supervised release condition forbidding computer or Internet use was invalid.	Mar. 28, 2002	Case		23 S.Ct.
Cited by	184. <u>U.S. v. Shvets</u> 631 Fed.Appx. 91, 94, 3rd Cir.(Pa.) CRIMINAL JUSTICE - Fraud. Demonstrating willfulness in fraud prosecution required only a showing of specific intent to disobey or disregard the law.	Nov. 20, 2015	Case		16 S.Ct.
Cited by	185. <u>U.S. v. Lewis</u> 766 F.3d 255, 262+, 3rd Cir.(Pa.) CRIMINAL JUSTICE - Sentencing. Error under <i>Alleyne v. United States</i> was subject to plain error analysis.	Sep. 09, 2014	Case		21 22 S.Ct.
Cited by	186. <u>Copenhefer v. Horn</u> 696 F.3d 377, 392, 3rd Cir.(Pa.) CRIMINAL JUSTICE - Death Penalty. Sentencing court's instruction to capital jury on mitigating circumstances did not violate Eighth Amendment.	Sep. 27, 2012	Case		—
Cited by	187. <u>U.S. v. Butler</u> 496 Fed.Appx. 158, 162, 3rd Cir.(Pa.) CRIMINAL JUSTICE - Instructions. Trial court's jury instruction regarding recklessness was not plain error.	Sep. 11, 2012	Case		21 S.Ct.
Cited by	188. <u>U.S. v. Wolfe</u> ¶ 461 Fed.Appx. 122, 125, 3rd Cir.(Pa.) CRIMINAL JUSTICE - Instructions. Proffered instruction on witness credibility was adequately covered by instruction given, in trial for retaliating against federal witness.	Feb. 14, 2012	Case		15 16 S.Ct.
Cited by	189. <u>U.S. v. Amezquita-Machado</u> ¶ 434 Fed.Appx. 143, 146+, 3rd Cir.(N.J.) CRIMINAL JUSTICE - Sentencing. Grouping of defendant's money laundering and cocaine distribution offenses for sentencing purposes was not warranted.	June 28, 2011	Case		21 22 23 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	190. U.S. v. Petersen  622 F.3d 196, 203+ , 3rd Cir.(Virgin Islands) CRIMINAL JUSTICE - Lesser Included Offenses. Conviction on lesser-included offense of possession with intent to distribute cocaine did not amount to plain error.	Oct. 01, 2010	Case		21 23 33 S.Ct.
Cited by	 191. U.S. v. Lee 612 F.3d 170, 191 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Evidence. Defendant's statements about his past possession of guns to protect his family were relevant to show his motive.	July 14, 2010	Case		13 S.Ct.
Cited by	192. U.S. v. Bagdy 353 Fed.Appx. 695, 697 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Restitution. Defendant was not entitled to waiver of interest on restitution order following his guilty plea on wire fraud charge.	Dec. 03, 2009	Case		—
Cited by	193. U.S. v. Green  252 Fed.Appx. 508, 510 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Instructions. Jury instruction, taken as a whole, adequately explained the concept of reasonable doubt.	Oct. 31, 2007	Case		—
Cited by	194. U.S. v. Spurell 245 Fed.Appx. 127, 129 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Instructions. The court did not commit reversible plain error in instructing the jury on how to evaluate a witness's testimony.	Aug. 17, 2007	Case		17 31 S.Ct.
Cited by	 195. U.S. v. Voelker 489 F.3d 139, 153 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Sentencing. Special condition of supervised release imposing lifetime ban on using computers and internet was not narrowly tailored.	June 05, 2007	Case		17 S.Ct.
Cited by	196. U.S. v. Young  149 Fed.Appx. 107, 110+ , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Searches and Seizures. Probable cause supported issuance of search warrant for defendant's residence.	Sep. 20, 2005	Case		—
Cited by	197. U.S. v. Munoz-Valencia 59 Fed.Appx. 483, 485 , 3rd Cir.(Virgin Islands) CRIMINAL JUSTICE - Sentencing. Defendant's voluntary departure in lieu of removal was "deportation" for sentencing purposes.	Mar. 07, 2003	Case		—
Cited by	198. U.S. v. Jake  281 F.3d 123, 131+ , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Conspiracy. Absence of statute of limitations defense instruction in conspiracy case was not plain error.	Feb. 14, 2002	Case		17 S.Ct.
Cited by	 199. Riley v. Taylor  277 F.3d 261, 312 , 3rd Cir.(Del.) CRIMINAL JUSTICE - Habeas Corpus. Habeas petitioner was entitled to relief on Batson claim.	Dec. 28, 2001	Case		26 28 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 200. <u>U.S. v. Vazquez</u> 271 F.3d 93, 103 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Sentencing. Apprendi violation did not seriously affect the fairness, integrity, or public reputation of judicial proceedings, for purposes of plain error rule.	Oct. 09, 2001	Case		17 S.Ct.
Cited by	 201. <u>Riley v. Taylor</u>  237 F.3d 300, 336 , 3rd Cir.(Del.) CRIMINAL JUSTICE - Jury. Record supported state courts' findings of no Batson violation.	Jan. 17, 2001	Case		26 28 S.Ct.
Cited by	 202. <u>U.S. v. Thayer</u> 201 F.3d 214, 222 , 3rd Cir.(Pa.) CRIMINAL JUSTICE - Sentencing. Bankruptcy fraud did not alone support sentence enhancement for violation of judicial process.	Dec. 28, 1999	Case		—
Cited by	203. <u>United States v. Torrez</u> 869 F.3d 291, 327+ , 4th Cir.(Va.) CRIMINAL JUSTICE - Death Penalty. Categorical approach does not apply in determining whether a defendant's prior convictions qualify as Federal Death Penalty Act (FDPA)...	Aug. 28, 2017	Case		6 S.Ct.
Cited by	204. <u>United States v. McDonald</u> 850 F.3d 640, 643 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Sentencing. Alleged error in sentencing defendant under the ACCA was harmless.	Mar. 09, 2017	Case		36 S.Ct.
Cited by	205. <u>U.S. v. Alvarado</u> 816 F.3d 242, 253+ , 4th Cir.(Va.) CRIMINAL JUSTICE - Drugs. Court was not required to give clarifying instruction advising that jury could not convict if found that heroin was only contributing cause of death.	Mar. 07, 2016	Case		16 S.Ct.
Cited by	206. <u>U.S. v. Hargrove</u> 701 F.3d 156, 161 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Sentencing. Assuming district court improperly calculated defendant's guideline sentencing range, such error was harmless.	Dec. 12, 2012	Case		36 S.Ct.
Cited by	207. <u>U.S. v. Martin</u> 445 Fed.Appx. 692, 698 , 4th Cir.(Va.) CRIMINAL JUSTICE - Sentencing. District court's error in considering defendant's medical needs at sentencing did not require resentencing.	Sep. 01, 2011	Case		33 S.Ct.
Cited by	208. <u>U.S. v. Coxton</u> 419 Fed.Appx. 407, 411 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Indictment and Information. Aiding and abetting did not have to be charged in an indictment charging crime based on aiding and abetting theory.	Mar. 18, 2011	Case		32 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	209. <u>U.S. v. Lopez</u> 409 Fed.Appx. 604, 606 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Appeals. Court of Appeals would not review drug defendant's claims of ineffective assistance on direct appeal.	Dec. 10, 2010	Case		33 S.Ct.
Cited by	210. <u>U.S. v. Lighty</u> 616 F.3d 321, 363 , 4th Cir.(Md.) CRIMINAL JUSTICE - Arguments and Opening Statement. Prosecutor's remarks during closing argument at sentencing did not violate capital defendant's due process rights.	Aug. 11, 2010	Case		36 S.Ct.
Cited by	211. <u>U.S. v. Adams</u> 335 Fed.Appx. 338, 347 , 4th Cir.(Va.) CRIMINAL JUSTICE - Obstructing Justice. Evidence was sufficient to support conviction of making false material statements to a government agent.	June 29, 2009	Case		24 28 S.Ct.
Cited by	212. <u>U.S. v. Basham</u> 561 F.3d 302, 335+ , 4th Cir.(S.C.) CRIMINAL JUSTICE - Jury. Defendant was not prejudiced by jury foreperson's contact with news media outlets.	Mar. 30, 2009	Case		32 S.Ct.
Cited by	213. <u>U.S. v. Moser</u> 235 Fed.Appx. 138, 144 , 4th Cir.(Md.) CRIMINAL JUSTICE - Confessions. Defendant's signed statement to police was voluntary and thus admissible at trial.	Aug. 10, 2007	Case		26 27 28 S.Ct.
Cited by	214. <u>U.S. v. Beasley</u> 495 F.3d 142, 148 , 4th Cir.(S.C.) CRIMINAL JUSTICE - Sentencing. Assuming that government filed timely information seeking increased punishment was not plain error.	July 25, 2007	Case		17 S.Ct.
Cited by	215. <u>U.S. v. McIver</u> 470 F.3d 550, 561+ , 4th Cir.(S.C.) CRIMINAL JUSTICE - Conspiracy. Evidence was sufficient to support to support physician's conviction for conspiracy to distribute controlled substances.	Dec. 05, 2006	Case		32 S.Ct.
Cited by	216. <u>U.S. v. Hurwitz</u> 459 F.3d 463, 481 , 4th Cir.(Va.) CRIMINAL JUSTICE - Drugs. Erroneous instruction on good faith was not harmless in physician's controlled-substance trial.	Aug. 22, 2006	Case		—
Cited by	217. <u>U.S. v. Alerre</u> 430 F.3d 681, 692 , 4th Cir.(S.C.) CRIMINAL JUSTICE - Drugs. Evidence that physicians violated civil standard of care in prescribing painkillers did not infect trial with error.	Dec. 01, 2005	Case		32 S.Ct.

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Cited by	218. <u>U.S. v. Ebersole</u> 411 F.3d 517, 526+ , 4th Cir.(Va.) CRIMINAL JUSTICE - Venue. Venue for presenting false claims to government was proper in district into which government agency had passed claim	June 14, 2005	Case		14 15 16 S.Ct.
Cited by	219. <u>U.S. v. Washington</u> 404 F.3d 834, 849 , 4th Cir.(W.Va.) CRIMINAL JUSTICE - Sentencing. A sentencing court's factual finding about the circumstances of a defendant's prior conviction violated his jury trial right.	Apr. 15, 2005	Case		33 S.Ct.
Cited by	220. <u>U.S. v. Gilchrist</u> 137 Fed.Appx. 520, 524 , 4th Cir. CRIMINAL JUSTICE - Sentencing. On rehearing, remand for resentencing in light of United States v. Booker was warranted.	Mar. 08, 2005	Case		33 S.Ct.
Cited by	221. <u>U.S. v. Hammoud</u> 381 F.3d 316, 381 , 4th Cir.(N.C.) CRIMINAL JUSTICE - Sentencing. Supreme Court's Blakely decision did not apply to federal sentencing guidelines.	Sep. 08, 2004	Case		28 S.Ct.
Cited by	222. <u>Lyons v. Lee</u> 316 F.3d 528, 535+ , 4th Cir.(N.C.) CRIMINAL JUSTICE - Habeas Corpus. Petitioner was not entitled to a certificate of appealability.	Jan. 21, 2003	Case		8 S.Ct.
Cited by	223. <u>Jackson v. Morgan</u> 19 Fed.Appx. 97, 109 , 4th Cir.(Md.) CIVIL RIGHTS - Prisons. Inmate did not state Eighth Amendment excessive force claim against prison officials.	Sep. 24, 2001	Case		11 S.Ct.
Cited by	224. <u>U.S. v. Abed</u> 203 F.3d 822, 822 , 4th Cir.(Va.) Joseph Abed, Amar Abed, Obadya Abed, Rayed Abed, Thaier Abed, and Fahad Tawalbeh (collectively, Appellants) were convicted by a jury of committing various federal crimes arising...	Jan. 10, 2000	Case		26 28 S.Ct.
Cited by	225. <u>United States v. Fairley</u> --- F.3d ---- , 5th Cir.(Miss.) CRIMINAL JUSTICE - Larceny. District court's erroneous jury instruction regarding elements of theft of government property was plain error.	Jan. 22, 2018	Case		26 29 S.Ct.
Cited by	226. <u>U.S. v. Mirabal</u> 608 Fed.Appx. 201, 205+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Sentencing. Court could not deny defendant sentence reduction for acceptance of responsibility for refusing to waive right to appeal sentence.	Apr. 16, 2015	Case		23 33 S.Ct.
Cited by	227. <u>U.S. v. Martinez-Lugo</u> 782 F.3d 198, 213+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Sentencing. Georgia statute was not "drug trafficking offense" subject to 16-level enhancement.	Mar. 27, 2015	Case		19 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	228. U.S. v. Akande  594 Fed.Appx. 239, 241 , 5th Cir.(Tex.) Background: Defendant was convicted following guilty plea in the United States District Court for the Northern District of Texas of possession of stolen mail. Defendant appealed....	Dec. 08, 2014	Case		21 23 33 S.Ct.
Cited by	229. Sprouse v. Stephens 748 F.3d 609, 623 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Habeas Corpus. State court's voluntary intoxication jury instruction was not an unreasonable application of clearly established Federal law	Apr. 07, 2014	Case		—
Cited by	230. U.S. v. DeLeon  484 Fed.Appx. 920, 930+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Immigration. Evidence was sufficient to support convictions for conspiracy to transport illegal aliens.	Aug. 02, 2012	Case		26 27 S.Ct.
Cited by	 231. U.S. v. Ebron  683 F.3d 105, 146+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. District court's error in submitting Federal Death Penalty Act's substantial planning aggravating to the jury was harmless.	May 30, 2012	Case		11 S.Ct.
Cited by	232. Jasper v. Thaler 466 Fed.Appx. 429, 441 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Jury. Defendant failed to establish Batson violation based on prosecutor's striking black juror	Apr. 26, 2012	Case		—
Cited by	 233. Trevino v. Thaler 449 Fed.Appx. 415, 427 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Discovery. Prosecutor's failure to disclose witness's statement during state trial for capital murder did not violate Brady.	Nov. 14, 2011	Case		8 S.Ct.
Cited by	234. Druery v. Thaler  647 F.3d 535, 544 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Counsel. Trial counsel's strategy of declining jury instruction on lesser-included offense was not objectively unreasonable.	July 20, 2011	Case		3 9 S.Ct.
Cited by	235. Rivas v. Thaler 432 Fed.Appx. 395, 406 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Counsel. Failure by murder defendant's counsel to object to prosecutor's alleged misstatement of law was not ineffective assistance.	July 14, 2011	Case		—
Cited by	 236. U.S. v. Mudekunye  646 F.3d 281, 299 , 5th Cir.(Tex.) Background: Defendants were convicted in the United States District Court for the Northern District of Texas, Reed Charles O'Connor, J., of conspiracy to prepare fraudulent tax...	July 11, 2011	Case		22 23 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	237. <u>Kerr v. Thaler</u>  384 Fed.Appx. 400, 404+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Capital defendant had no due process right to have jurors instructed on consequences of failing to agree on special issues.	June 30, 2010	Case		7 8 9 S.Ct.
Cited by	238. <u>U.S. v. Williams</u> 610 F.3d 271, 284+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. "Act of violence" under the Federal Death Penalty Act must entail at least some use of physical force.	June 24, 2010	Case		6 S.Ct.
Cited by	239. <u>Greer v. Thaler</u> 380 Fed.Appx. 373, 389 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Defendant sentenced to death was not entitled to Certificate of Appealability (COA) based on allegedly improper juror comments.	May 17, 2010	Case		8 S.Ct.
Cited by	240. <u>U.S. v. Arguemedo-Perez</u>  326 Fed.Appx. 293, 295 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Sentencing. Virginia grand larceny conviction based on indictment that alleged "steal[ing]" did not qualify as theft offense.	May 08, 2009	Case		23 S.Ct.
Cited by	241. <u>ShisInday v. Quarterman</u> 511 F.3d 514, 523 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Capital murder defendant's execution was not barred on grounds of defendant's history of mental illness.	Dec. 20, 2007	Case		28 S.Ct.
Cited by	 242. <u>U.S. v. Fields</u> 483 F.3d 313, 325+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Confrontation right does not extend to presentation of evidence relevant to penalty selection at capital sentencing.	Mar. 29, 2007	Case		34 35 36 S.Ct.
Cited by	243. <u>Roach v. Quarterman</u> 220 Fed.Appx. 270, 277 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. State clemency procedures were not arbitrary nor otherwise defective as to deny habeas petitioner due process.	Feb. 26, 2007	Case		8 S.Ct.
Cited by	 244. <u>U.S. v. Agofsky</u> 458 F.3d 369, 373 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Double Jeopardy. Federal murder and murder by federal prisoner, based on single killing, were same offense under double jeopardy clause.	July 28, 2006	Case		—
Cited by	 245. <u>U.S. v. Holmes</u>  406 F.3d 337, 366 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Sentencing. Defendant failed to establish that the district court's Booker error affected his substantial rights.	Apr. 06, 2005	Case		33 S.Ct.

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Cited by	 246. U.S. v. Robinson ” 367 F.3d 278, 293+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Death Penalty. Failure to charge aggravators in indictment was harmless error.	Apr. 14, 2004	Case		36 S.Ct.
Cited by	 247. U.S. v. Jones ” 287 F.3d 325, 328+ , 5th Cir.(Tex.) CRIMINAL JUSTICE - Sentencing. Defendant did not show that geography arbitrarily affected imposition of federal death sentences.	Mar. 27, 2002	Case		20 S.Ct.
Cited by	 248. VanDuren v. Cockrell 31 Fed.Appx. 833, 833 , 5th Cir.(Tex.) Rodney Flynn Vanduren appeals the district court's dismissal of his 28 U.S.C. § 2254 habeas petition as barred by the one year statute of limitations. Vanduren primarily argues...	Jan. 11, 2002	Case		1 20 S.Ct.
Cited by	 249. Alexander v. Johnson 211 F.3d 895, 897 , 5th Cir.(Tex.) CRIMINAL JUSTICE - Habeas Corpus. Habeas petitioner's constitutional challenge to state criminal procedure rule barred by Teague.	May 05, 2000	Case		8 S.Ct.
Cited by	250. U.S. v. Townsend 189 F.3d 466, 466 , 5th Cir.(Miss.) On March12, 1997, the defendant-appellant, Braxton Townsend ("Townsend"), was charged alone in a five-count indictment. Count I charged that on November 14, 1996, Townsend...	June 24, 1999	Case		21 33 S.Ct.
Cited by	 251. U.S. v. Townsend --- F.3d ---- , 5th Cir.(Miss.) Opinion withdrawn from publication at the request of the court.	June 24, 1999	Case		21 33 S.Ct.
Cited by	252. Christian v. Romanowski ” 2017 WL 4083632, *5+ , 6th Cir. Matthew Lane Christian, a former Michigan prisoner represented by counsel, appeals from the district court's judgment denying his 28 U.S.C. § 2254 habeas corpus petition....	Aug. 25, 2017	Case		26 S.Ct.
Cited by	253. U.S. v. Suarez ” 617 Fed.Appx. 537, 541 , 6th Cir.(Ohio) CRIMINAL JUSTICE - Obstructing Justice. Jury instruction did not eliminate mens rea requirement of specific intent to commit witness tampering.	July 22, 2015	Case		26 S.Ct.
Cited by	254. Mitts v. Bagley 626 F.3d 366, 369 , 6th Cir. The court having received a petition for rehearing en banc, and the petition having been circulated not only to the original panel members but also to all other active judges of...	Dec. 01, 2010	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	255. <u>Bedford v. Collins</u> 567 F.3d 225, 239 , 6th Cir.(Ohio) CRIMINAL JUSTICE - Jury. Striking of prospective jurors based on finding that they lacked ability to impose death penalty was warranted.	June 04, 2009	Case		8 S.Ct.
Cited by	256. <u>U.S. v. Mitchell</u> 295 Fed.Appx. 799, 803 , 6th Cir.(Mich.) CRIMINAL JUSTICE - Sentencing. An offense level enhancement for the defendant's role as a manager or supervisor in the drug conspiracy was warranted.	Oct. 08, 2008	Case		33 S.Ct.
Cited by	257. <u>U.S. v. Lester</u> 238 Fed.Appx. 80, 83 , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Evidence. Cross-examination of defendant's girlfriend regarding domestic violence incident was permissible to impeach testimony that defendant had not beaten...	June 25, 2007	Case		32 S.Ct.
Cited by	 258. <u>Cone v. Bell</u>  492 F.3d 743, 751+ , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Habeas Corpus. Affirmance of death sentence by state court was not contrary to clearly established Eighth Amendment law barring habeas relief.	June 19, 2007	Case		35 36 S.Ct.
Cited by	 259. <u>Spisak v. Mitchell</u> 465 F.3d 684, 709 , 6th Cir.(Ohio) CRIMINAL JUSTICE - Counsel. Defense counsel rendered ineffective assistance during closing argument of capital murder prosecution.	Oct. 20, 2006	Case		24 S.Ct.
Cited by	260. <u>U.S. v. Young</u>  424 F.3d 499, 505+ , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Death Penalty. Pretrial order in capital case for empanelment of second jury for penalty phase violated Federal Death Penalty Act.	Sep. 29, 2005	Case		1 S.Ct.
Cited by	261. <u>U.S. v. Ostrander</u> 411 F.3d 684, 687 , 6th Cir.(Mich.) CRIMINAL JUSTICE - Sentencing. District Court lacked discretion to override jury's sentence in capital murder case.	June 10, 2005	Case		2 28 S.Ct.
Cited by	262. <u>U.S. v. Jones</u> 128 Fed.Appx. 490, 495 , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Confessions. Defendant was not in custody for Miranda purposes.	Apr. 19, 2005	Case		33 S.Ct.
Cited by	263. <u>U.S. v. Moreno-Delgado</u> 127 Fed.Appx. 854, 859 , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Sentencing. Sentencing enhancement based on a prior conviction does not implicate Sixth Amendment concerns.	Apr. 18, 2005	Case		33 S.Ct.
Cited by	264. <u>U.S. v. Pittman</u> 129 Fed.Appx. 917, 924 , 6th Cir.(Tenn.) CRIMINAL JUSTICE - Sentencing. Resentencing was required where enhancement based on obliterated serial number on firearm was unproven.	Apr. 13, 2005	Case		33 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 265. <u>Roe v. Baker</u> 316 F.3d 557, 564 , 6th Cir.(Ohio) CRIMINAL JUSTICE - Habeas Corpus. Petitioner's claim was barred by Teague.	Oct. 31, 2002	Case		—
Cited by	 266. <u>Buell v. Mitchell</u> 274 F.3d 337, 357+ , 6th Cir.(Ohio) JUDICIAL ADMINISTRATION - Judges. Recusal from capital murder case of judge who sponsored death penalty legislation was not required.	Dec. 04, 2001	Case		8 9 12 S.Ct.
Cited by	267. <u>U.S. v. Brown</u> 221 F.3d 1336, 1336 , 6th Cir.(Mich.) This is the third appeal we have considered arising out of the "Best Friends" cocaine trafficking conspiracy. The defendant, Gregory Brown, was convicted of: (1) conspiracy to...	June 20, 2000	Case		33 S.Ct.
Cited by	 268. <u>Scott v. Mitchell</u> 209 F.3d 854, 877 , 6th Cir.(Ohio) CRIMINAL JUSTICE - Habeas Corpus. Claim based on jury unanimity instruction was procedurally defaulted.	Apr. 19, 2000	Case		1 S.Ct.
Cited by	269. <u>Adorno v. Melvin</u> 876 F.3d 917, 922 , 7th Cir.(Ill.) CRIMINAL JUSTICE - Judges. Judge's comments to jury during voir dire about reasonable doubt standard did not violate defendant's due process rights.	Dec. 01, 2017	Case		26 S.Ct.
Cited by	270. <u>U.S. v. Currie</u> 739 F.3d 960, 965 , 7th Cir.(Ind.) CRIMINAL JUSTICE - Sentencing. Defendant was entitled to limited remand to ascertain whether sentencing court would impose different sentence.	Jan. 07, 2014	Case		—
Cited by	 271. <u>U.S. v. Mikos</u> 539 F.3d 706, 715+ , 7th Cir.(Ill.) CRIMINAL JUSTICE - Death Penalty. Vulnerable-victim finding under Federal Death Penalty Act was supported by the evidence.	Aug. 25, 2008	Case		35 S.Ct.
Cited by	 272. <u>U.S. v. Paladino</u> 401 F.3d 471, 482 , 7th Cir.(Ill.) CRIMINAL JUSTICE - Sentencing. Following Booker decision, remand was warranted to determine whether judge would reimpose original sentence.	Feb. 25, 2005	Case		17 S.Ct.
Cited by	273. <u>Wallace v. Davis</u> 362 F.3d 914, 916 , 7th Cir.(Ind.) CRIMINAL JUSTICE - Habeas Corpus. Habeas petitioner was not denied effective assistance of counsel at sentencing hearing.	Mar. 26, 2004	Case		34 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	274. U.S. v. Behrens  713 F.3d 926, 929 , 8th Cir.(Neb.) Background: Defendant pled guilty and was convicted in the United States District Court for the District of Nebraska, Lyle E. Strom, J., of securities fraud and sentenced to five...	Apr. 25, 2013	Case		19 S.Ct.
Cited by	275. U.S. v. Meeks 639 F.3d 522, 528 , 8th Cir.(Iowa) CRIMINAL JUSTICE - Lesser Included Offenses. Distribution of crack cocaine was not lesser included offense of conspiracy to distribute crack cocaine.	Apr. 12, 2011	Case		22 S.Ct.
Cited by	276. U.S. v. Vanover 630 F.3d 1108, 1125 , 8th Cir.(Iowa) CRIMINAL JUSTICE - Drugs. Error in trial court's jury instruction did not affect drug defendants' substantial rights, and thus was not plain error.	Jan. 13, 2011	Case		22 S.Ct.
Cited by	 277. U.S. v. Rodriguez  581 F.3d 775, 812 , 8th Cir.(N.D.) CRIMINAL JUSTICE - Venue. District court did not abuse its discretion by denying motion for change of venue based on presumed prejudice.	Sep. 22, 2009	Case		34 S.Ct.
Cited by	278. U.S. v. Bolden 545 F.3d 609, 625 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Death Penalty. There was no unconstitutional duplication of aggravating sentencing factors in capital murder trial.	Nov. 04, 2008	Case		34 S.Ct.
Cited by	 279. Clayton v. Roper 515 F.3d 784, 793 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Habeas Corpus. Petitioner was competent to proceed with habeas proceeding to review state murder conviction.	Feb. 01, 2008	Case		—
Cited by	280. U.S. v. DeRosier 501 F.3d 888, 898 , 8th Cir.(Iowa) CRIMINAL JUSTICE - Restitution. Personal loan fraudulently obtained by bank employee from a bank customer was properly included in restitution order.	Sep. 13, 2007	Case		17 18 S.Ct.
Cited by	 281. U.S. v. Carter 481 F.3d 601, 609 , 8th Cir.(Minn.) CRIMINAL JUSTICE - Counsel. Defendant did not adequately invoke his right to self-representation.	Mar. 23, 2007	Case		22 S.Ct.
Cited by	 282. Weaver v. Bowersox  438 F.3d 832, 841 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Habeas Corpus. State court finding that prosecutor's closing arguments in capital case were reasonable warranted federal habeas relief.	Feb. 16, 2006	Case		5 6 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	283. U.S. v. Agboola 417 F.3d 860, 867+ , 8th Cir.(Minn.) CRIMINAL JUSTICE - Sentencing. A base offense level enhancement for obstruction of justice was warranted.	Aug. 08, 2005	Case		31 33 S.Ct.
Cited by	284. U.S. v. Lopez 414 F.3d 954, 963 , 8th Cir.(S.D.) CRIMINAL JUSTICE - Drugs. The evidence was sufficient to support a conviction for possession with intent to distribute methamphetamine.	July 18, 2005	Case		17 22 S.Ct.
Cited by	285. U.S. v. Thorn 413 F.3d 820, 823 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Sentencing. Facts in PSR to which defendant did not object were deemed admitted and were properly used to enhance sentence.	July 11, 2005	Case		17 22 S.Ct.
Cited by	286. U.S. v. Smith 410 F.3d 426, 431+ , 8th Cir.(Ark.) CRIMINAL JUSTICE - Sentencing. Sentencing of the defendant under mandatory sentencing guidelines was not plain error affecting his substantial rights.	June 03, 2005	Case		22 33 S.Ct.
Cited by	287. U.S. v. Johnson 408 F.3d 535, 539 , 8th Cir.(Ark.) CRIMINAL JUSTICE - Sentencing. Defendant who was deeply involved in methamphetamine conspiracy was not entitled to minor role reduction.	May 27, 2005	Case		33 S.Ct.
Cited by	288. U.S. v. Lincoln 408 F.3d 522, 527+ , 8th Cir.(Iowa) CRIMINAL JUSTICE - Sentencing. Defendant's failure to appear for jury selection supported application of obstruction of justice enhancement.	May 26, 2005	Case		33 S.Ct.
Cited by	289. U.S. v. Patterson 412 F.3d 1011, 1015 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Weapons. Evidence established that defendant possessed a gun as required to support conviction of possession of firearm by felon.	May 13, 2005	Case		17 22 23 S.Ct.
Cited by	290. U.S. v. Finck 407 F.3d 908, 916 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Sentencing. Defendant's two false statements to law enforcement officials warranted an enhancement for obstruction of justice.	May 11, 2005	Case		17 21 33 S.Ct.
Cited by	291. U.S. v. Pirani 406 F.3d 543, 550 , 8th Cir.(Ark.) CRIMINAL JUSTICE - Sentencing. Remand was not needed on plain error review where more favorable sentence was not reasonably probable under advisory regime.	Apr. 29, 2005	Case		17 22 23 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 292. <u>U.S. v. Lee</u> 374 F.3d 637, 653 , 8th Cir.(Ark.) CRIMINAL JUSTICE - Confrontation. Nontestifying codefendant's statements to his brother were not testimonial in nature.	July 08, 2004	Case		17 S.Ct.
Cited by	 293. <u>U.S. v. Collins</u> 340 F.3d 672, 682 , 8th Cir.(Neb.) CRIMINAL JUSTICE - Conspiracy. Evidence was sufficient to support conviction of conspiracy to distribute methamphetamine.	Aug. 25, 2003	Case		21 33 S.Ct.
Cited by	294. <u>Moore v. Kinney</u>  320 F.3d 767, 774 , 8th Cir.(Neb.) CRIMINAL JUSTICE - Death Penalty. Formulation of death penalty aggravator of exception depravity was not unconstitutionally vague.	Feb. 10, 2003	Case		34 S.Ct.
Cited by	 295. <u>Tunstall v. Hopkins</u> 306 F.3d 601, 609 , 8th Cir.(Iowa) CRIMINAL JUSTICE - Counsel. Counsel's failure to seek voir dire of jury regarding publicity was reasonable trial strategy.	Sep. 24, 2002	Case		32 S.Ct.
Cited by	 296. <u>U.S. v. Kempis-Bonola</u> 287 F.3d 699, 701 , 8th Cir.(Minn.) CRIMINAL JUSTICE - Sentencing. Jury did not have to decide aggravated nature of prior felony offense.	Apr. 19, 2002	Case		21 33 S.Ct.
Cited by	 297. <u>Moore v. Kinney</u>  278 F.3d 774, 789+ , 8th Cir.(Neb.) CRIMINAL JUSTICE - Death Penalty. Facially-vague aggravator of exceptional depravity remained unconstitutional.	Jan. 25, 2002	Case		5 S.Ct.
Cited by	298. <u>Johns v. Bowersox</u> 203 F.3d 538, 545 , 8th Cir.(Mo.) CRIMINAL JUSTICE - Postconviction Relief. State supreme court's refusal to apply holding to capital defendant's case did not violate due process.	Feb. 08, 2000	Case		—
Cited by	 299. <u>United States v. Nosal</u> 844 F.3d 1024, 1039 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Computer Crimes. Convictions for trade secrets theft under Economic Espionage Act (EEA) were supported by sufficient evidence.	Dec. 08, 2016	Case		—
Cited by	300. <u>United States v. Yijun Zhou</u> 838 F.3d 1007, 1015 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Victim Compensation. Any error in including losses sustained by victims not mentioned in plea colloquy in calculating restitution amount was not plain error.	Sep. 27, 2016	Case		21 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	301. <u>Preap v. Johnson</u>  831 F.3d 1193, 1204 , 9th Cir.(Cal.) IMMIGRATION - Habeas Corpus. INA's mandatory detention provision applied only to aliens detained promptly after their release from criminal custody.	Aug. 04, 2016	Case		19 S.Ct.
Cited by	302. <u>United States v. Morsette</u> 653 Fed.Appx. 499, 502 , 9th Cir.(Mont.) CRIMINAL JUSTICE - Embezzlement and Conversion. Healthcare facility defendant stole from fell within definition of "health care benefit program," subjecting defendant to liability...	June 22, 2016	Case		13 S.Ct.
Cited by	303. <u>U.S. v. Mendoza-Peralta</u>  624 Fed.Appx. 456, 459 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Sentencing. Court did not comply with heightened procedural requirements for sentencing condition prohibiting defendant from accessing sexually explicit...	Aug. 20, 2015	Case		21 33 S.Ct.
Cited by	304. <u>U.S. v. Vera</u>  770 F.3d 1232, 1252 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Experts. It was plain error not to instruct jury in drug prosecution on how to appropriately evaluate federal agent's expert opinions.	Oct. 22, 2014	Case		—
Cited by	305. <u>U.S. v. Christensen</u> 732 F.3d 1094, 1106 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Sentencing. District court did not rely upon clearly erroneous facts in determining wire fraud sentence.	Oct. 11, 2013	Case		33 S.Ct.
Cited by	306. <u>U.S. v. Jackson</u>  697 F.3d 1141, 1144 , 9th Cir.(Or.) CRIMINAL JUSTICE - Sentencing. There was no plain error in a district court's enhancement of defendant's sentence by two levels for use of a computer.	Oct. 11, 2012	Case		21 22 33 S.Ct.
Cited by	307. <u>U.S. v. Rendon-Agudelo</u> 476 Fed.Appx. 685, 686 , 9th Cir.(Cal.) Luis Carlos Rendon-Agudelo appeals his conviction for conspiring to import and distribute cocaine. We affirm. The evidence presented at trial was sufficient to convict...	June 07, 2012	Case		32 S.Ct.
Cited by	308. <u>U.S. v. Pineda-Doval</u>  614 F.3d 1019, 1025+ , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Immigration. Proximate cause was element of offense of transportation of illegal aliens resulting in death.	Aug. 10, 2010	Case		14 17 S.Ct.
Cited by	309. <u>U.S. v. Chico</u> 343 Fed.Appx. 199, 201 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Sentencing. District court was required to provide adequate explanation supporting its imposition of sentence.	Aug. 18, 2009	Case		21 33 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 310. <u>U.S. v. Tran</u> 568 F.3d 1156, 1163+ , 9th Cir.(Wash.) CRIMINAL JUSTICE - Conspiracy. Defendant's presence as codefendant's passenger during marijuana deal was insufficient evidence to demonstrate conspiracy.	June 24, 2009	Case		21 31 33 S.Ct.
Cited by	 311. <u>U.S. v. Cruz</u> 554 F.3d 840, 851 , 9th Cir.(Mont.) NATIVE AMERICANS - Crimes. Insufficient evidence established that defendant was an Indian.	Feb. 10, 2009	Case		33 S.Ct.
Cited by	312. <u>Edwards v. Ayers</u>  542 F.3d 759, 766 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Homicide. Jury instruction on lying-in-wait special circumstance of homicide was adequate.	Sep. 09, 2008	Case		5 6 S.Ct.
Cited by	 313. <u>Belmontes v. Ayers</u>  529 F.3d 834, 877+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Habeas Corpus. Defendant was prejudiced by counsel's deficient performance at penalty phase of capital murder trial, warranting habeas corpus.	June 13, 2008	Case		3 8 9 S.Ct.
Cited by	 314. <u>U.S. v. Holland</u> 519 F.3d 909, 911 , 9th Cir.(Idaho) CRIMINAL JUSTICE - Judges. District judge did not plainly err when he did not sua sponte recuse himself.	Mar. 17, 2008	Case		—
Cited by	315. <u>U.S. v. Caulder</u> 257 Fed.Appx. 16, 17 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Witnesses. It was within district court's discretion not to release psychiatric records of witness to defendant.	Nov. 09, 2007	Case		17 31 S.Ct.
Cited by	 316. <u>U.S. v. Holland</u> 501 F.3d 1120, 1121 , 9th Cir.(Idaho) CRIMINAL JUSTICE - Judges. The district judge did not plainly err by not recusing himself after getting a threatening message from the defendant.	Sep. 04, 2007	Case		18 S.Ct.
Cited by	317. <u>U.S. v. Gaytan-Gonzalez</u> 224 Fed.Appx. 631, 632 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Drugs. Evidence of prior drug conviction was admissible in drug trafficking prosecution.	Mar. 12, 2007	Case		17 31 S.Ct.
Cited by	318. <u>U.S. v. Wilson</u> 221 Fed.Appx. 551, 553 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Homicide. Circumstantial evidence was sufficient to support finding of malice aforethought, as element of second-degree murder.	Feb. 22, 2007	Case		—
Cited by	319. <u>U.S. v. Benz</u> 472 F.3d 657, 659+ , 9th Cir.(Cal.) CRIMINAL JUSTICE - Pleas. The failure to advise the defendant of the mandatory minimum sentence prior to his guilty plea was reversible plain error.	Dec. 28, 2006	Case		21 23 33 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	320. <u>U.S. v. Kuiken</u> 198 Fed.Appx. 643, 646 , 9th Cir.(Wash.) CRIMINAL JUSTICE - Witnesses. Government did not unreasonably interfere with defendants' access to witness.	Aug. 24, 2006	Case		17 S.Ct.
Cited by	321. <u>U.S. v. Chezem</u> 195 Fed.Appx. 689, 690 , 9th Cir.(Mont.) CRIMINAL JUSTICE - Weapons. Evidence was sufficient to support conviction of conspiracy to possess machine guns.	Aug. 02, 2006	Case		—
Cited by	322. <u>U.S. v. Ching Tang Lo</u> 447 F.3d 1212, 1228 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Drugs. Evidence supported conviction for possession of ephedrine with knowledge it would be used to manufacture methamphetamine.	May 19, 2006	Case		17 18 31 S.Ct.
Cited by	323. <u>U.S. v. Gonzales-Barrera</u> 178 Fed.Appx. 761, 763 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Indictment and Information. Defendant could be convicted substantive offense committed by coconspirator not charged in indictment.	May 09, 2006	Case		31 S.Ct.
Cited by	324. <u>U.S. v. Duarte-Reyes</u> ” 177 Fed.Appx. 732, 733 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Immigration. Date of defendant's prior deportation did not need to be proven to jury beyond a reasonable doubt.	Apr. 25, 2006	Case		21 33 S.Ct.
Cited by	325. <u>Mosqueda v. County of Los Angeles</u> ” 171 Fed.Appx. 16, 17 , 9th Cir.(Cal.) CIVIL RIGHTS - Jury. District Court did not plainly err in conducting voir dire in civil rights action.	Mar. 10, 2006	Case		21 31 33 S.Ct.
Cited by	326. <u>U.S. v. Burlingame</u> 172 Fed.Appx. 719, 721 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Fraud. Jury instruction limiting the “good-faith” defense to fraud properly stated the law.	Feb. 24, 2006	Case		14 31 S.Ct.
Cited by	327. <u>U.S. v. Thoi</u> 158 Fed.Appx. 31, 32 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Probation. Court had jurisdiction over proceeding to revoke supervised release even if arrest was pursuant to unsworn warrant.	Dec. 12, 2005	Case		17 S.Ct.
Cited by	328. <u>U.S. v. Peters</u> 171 Fed.Appx. 2, 3 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Sentencing. Rule requiring that guilty plea be knowing and voluntary did not apply to admission to violation of supervised release.	Oct. 19, 2005	Case		31 S.Ct.
Cited by	329. <u>U.S. v. McDowell & Co.</u> 148 Fed.Appx. 578, 580 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Indictment and Information. Any variances between mail and wire fraud indictment and proof at trial were harmless.	Sep. 14, 2005	Case		17 18 31 S.Ct.

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Cited by	330. <u>U.S. v. Hoagland</u> 144 Fed.Appx. 638, 639+ , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Weapons. Evidence supported conviction for use of destructive device during crime of violence.	Aug. 12, 2005	Case		17 18 S.Ct.
Cited by	331. <u>U.S. v. Stafford</u> 416 F.3d 1068, 1077 , 9th Cir.(Wash.) CRIMINAL JUSTICE - Searches and Seizures. Warrantless entry and search was justified under emergency doctrine.	Aug. 03, 2005	Case		21 31 33 S.Ct.
Cited by	332. <u>U.S. v. McVay</u> 141 Fed.Appx. 566, 569 , 9th Cir.(Wash.) CRIMINAL JUSTICE - Searches and Seizures. Plain view exception to warrant exception applied to incriminating items in plain view during protective sweep of room.	July 27, 2005	Case		17 S.Ct.
Cited by	333. <u>U.S. v. Ameline</u> 409 F.3d 1073, 1099+ , 9th Cir.(Mont.) CRIMINAL JUSTICE - Sentencing. Limited remand was required to determine whether Booker error was harmful.	June 01, 2005	Case		17 S.Ct.
Cited by	334. <u>Sandifer v. Lewis</u> 120 Fed.Appx. 202, 204 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Prosecutorial Misconduct. Prosecutor's improper remarks concerning a co-defendant's conviction were harmless.	Jan. 27, 2005	Case		—
Cited by	335. <u>U.S. v. Parisian</u> 118 Fed.Appx. 138, 139 , 9th Cir.(Mont.) CRIMINAL JUSTICE - Presence of Accused. Excluding defendant from courtroom during hearing on witness tampering did not violate due process.	Nov. 19, 2004	Case		17 S.Ct.
Cited by	336. <u>People of Territory of Guam v. Quidachay</u> 110 Fed.Appx. 745, 747 , 9th Cir.(Guam) CRIMINAL JUSTICE - Appeals. Testimony of recanting witness was not likely to produce an acquittal and did not warrant new trial.	July 01, 2004	Case		21 31 33 S.Ct.
Cited by	337. <u>U.S. v. Singh</u> 94 Fed.Appx. 511, 516 , 9th Cir.(Wash.) CRIMINAL JUSTICE - Sentencing. Weapons enhancement on drug convictions was proper despite defendant's severe physical impairment.	Mar. 29, 2004	Case		18 S.Ct.
Cited by	338. <u>U.S. v. Lillard</u> 354 F.3d 850, 853 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Evidence. Evidence of defendant's drug theft was not required to be excluded in drug conspiracy prosecution.	Dec. 02, 2003	Case		17 S.Ct.
Cited by	339. <u>U.S. v. Marin</u> 77 Fed.Appx. 945, 946 , 9th Cir.(Nev.) Melvin Marin appeals from his 24-month sentence for making a false statement and fraudulently attempting to obtain citizenship, in violation of 18 U.S.C. §§ 1001 and 1425(a). We...	Oct. 07, 2003	Case		17 S.Ct.

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Cited by	 340. <u>Summerlin v. Stewart</u> ” 341 F.3d 1082, 1113 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Death Penalty. Ring v. Arizona applied retroactively to cases on federal habeas review.	Sep. 02, 2003	Case		11 S.Ct.
Cited by	 341. <u>U.S. v. Severino</u> ” 316 F.3d 939, 947 , 9th Cir.(Alaska) CRIMINAL JUSTICE - Sentencing. Notice received by defendant was constitutionally adequate despite late mailing of information.	Jan. 14, 2003	Case		17 S.Ct.
Cited by	342. <u>U.S. v. Hicks</u> 50 Fed.Appx. 867, 867+ , 9th Cir.(Mont.) REAL PROPERTY - Mineral Rights and Interests. Corporation that owned subsurface mineral rights in national forest was “landowner.”	Nov. 14, 2002	Case		17 21 31 S.Ct.
Cited by	 343. <u>U.S. v. Leos-Maldonado</u> 302 F.3d 1061, 1064 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Immigration. Camera surveillance did not prevent illegal reentry violation on attempt theory.	Sep. 09, 2002	Case		21 31 33 S.Ct.
Cited by	344. <u>U.S. v. Yanez-Del Rio</u> 44 Fed.Appx. 129, 129 , 9th Cir.(Ariz.) Alfredo Yañez-Del Rio appeals his jury conviction for conspiracy to transport illegal aliens, transportation of illegal aliens and aiding and abetting in violation of 8 U.S.C. §§...	Aug. 02, 2002	Case		17 S.Ct.
Cited by	345. <u>U.S. v. Ramirez</u> 44 Fed.Appx. 80, 84+ , 9th Cir.(Or.) CRIMINAL JUSTICE - Confrontation. Detective's testimony regarding informants' statements did not violate Confrontation Clause.	Feb. 25, 2002	Case		21 S.Ct.
Cited by	346. <u>U.S. v. Wick</u> 34 Fed.Appx. 273, 276 , 9th Cir.(Ariz.) CRIMINAL JUSTICE - Sentencing. Corporation's subsequent losses could not reduce amount of tax loss for sentencing purposes.	Feb. 11, 2002	Case		17 21 31 S.Ct.
Cited by	347. <u>U.S. v. Duarte-Torres</u> 28 Fed.Appx. 692, 693 , 9th Cir.(Or.) CRIMINAL JUSTICE - Instructions. Jury instruction did not subject defendant to greater than maximum applicable sentence under Apprendi.	Jan. 15, 2002	Case		30 S.Ct.
Cited by	348. <u>U.S. v. Sherrer</u> ” 18 Fed.Appx. 651, 655+ , 9th Cir.(Or.) CRIMINAL JUSTICE - Evidence. Evidence that defendant had not filed income tax returns for 20 years was admissible as prior bad acts.	Sep. 13, 2001	Case		17 S.Ct.
Cited by	349. <u>U.S. v. Waite</u> 13 Fed.Appx. 593, 597 , 9th Cir.(Idaho) CRIMINAL JUSTICE - Larceny. Evidence supported conviction for illegally logging a closed National Forest area.	June 29, 2001	Case		17 18 S.Ct.

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Cited by	350. U.S. v. Martinez-Ceballos 9 Fed.Appx. 673, 674 , 9th Cir.(Nev.) CRIMINAL JUSTICE - Sentencing. Unproved prior conviction could enhance deported alien reentry conviction.	May 22, 2001	Case		17 S.Ct.
Cited by	351. U.S. v. Lam 4 Fed.Appx. 444, 446 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Conspiracy. Reading jury relevant portions of money laundering statute in instructing on conspiracy charge was not plain error.	Feb. 21, 2001	Case		17 31 S.Ct.
Cited by	352. Lang v. Woodford  230 F.3d 1367, 1367 , 9th Cir.(Cal.) We have jurisdiction under 28 U.S.C. §§ 1291, 2253(a). We affirm in part, and reverse and remand in part. The jury found, as a separate and independent special circumstance, that...	Sep. 05, 2000	Case		26 S.Ct.
Cited by	353. U.S. v. Chandler  232 F.3d 897, 897 , 9th Cir.(Cal.) Scott Lambert Chandler ("Chandler") appeals his sentence imposed after revocation of supervised release. Chandler contends that his sentence should be vacated because: (1) the...	Aug. 11, 2000	Case		21 31 S.Ct.
Cited by	354. U.S. v. Lillibridge 232 F.3d 898, 898 , 9th Cir.(Nev.) Defendant-appellant Mark William Lillibridge was convicted, following a jury trial, of eight counts of making and possessing unlawful destructive devices in violation of 26 U.S.C....	Aug. 07, 2000	Case		17 31 S.Ct.
Cited by	355. U.S. v. Shomorin 229 F.3d 1161, 1161 , 9th Cir.(Cal.) In these three appeals, consolidated for the purpose of decision, Anthony Owolabi Shomorin and Peter Graham Amutalla challenge their drug-related convictions, and Shomorin also...	July 13, 2000	Case		17 S.Ct.
Cited by	 356. U.S. v. Campos  217 F.3d 707, 715 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Evidence. Evidence was not inadmissible drug courier profile testimony.	June 28, 2000	Case		21 31 33 S.Ct.
Cited by	357. Brandon v. Mare-Bear, Inc. 225 F.3d 661, 661+ , 9th Cir.(Nev.) Lionel Brandon appeals from the final judgment entered following a jury's verdict in favor of his employer, Stardust Hotel and Casino ("Stardust"). Brandon alleged race...	June 05, 2000	Case		17 21 S.Ct.
Cited by	 358. U.S. v. Chang 207 F.3d 1169, 1175 , 9th Cir.(Cal.) CRIMINAL JUSTICE - Counterfeiting. Evidence supported conviction of uttering a counterfeit foreign security.	Apr. 04, 2000	Case		17 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	359. U.S. v. Faust  795 F.3d 1243, 1251 , 10th Cir.(Wyo.) CRIMINAL JUSTICE - Sex Offenses. Evidence was sufficient to support attempted online enticement conviction.	Aug. 04, 2015	Case		13 15 16 S.Ct.
Cited by	360. U.S. v. Navarro-Flores 421 Fed.Appx. 863, 866 , 10th Cir.(Wyo.) CRIMINAL JUSTICE - Drugs. Government's failure to tell Mexican drug defendant of right to consular notification was not clear error under federal law.	Apr. 28, 2011	Case		21 33 S.Ct.
Cited by	361. Laboratory Corp. of America Holdings v. Metabolite Laboratories, Inc. 410 Fed.Appx. 151, 157 , 10th Cir.(Colo.) PATENTS - Medical Devices and Procedures. Sublicensee was not obligated by license agreement regarding homocysteine-only assay to subsequently pay know-how royalties.	Feb. 02, 2011	Case		—
Cited by	 362. U.S. v. Zubia-Torres 550 F.3d 1202, 1206 , 10th Cir.(N.M.) CRIMINAL JUSTICE - Appeals. Defense counsel's statement at sentencing did not amount to waiver of issue.	Dec. 22, 2008	Case		—
Cited by	 363. U.S. v. Kaufman 546 F.3d 1242, 1259 , 10th Cir.(Kan.) CRIMINAL JUSTICE - Confrontation. Order precluding defendants' eye contact with former patients did not prejudice defendants' substantial rights.	Nov. 12, 2008	Case		33 S.Ct.
Cited by	 364. U.S. v. Barrett  496 F.3d 1079, 1111 , 10th Cir.(Okla.) CRIMINAL JUSTICE - Death Penalty. Admission of victim impact evidence in capital sentencing phase of drug crime prosecution was not plain error.	July 25, 2007	Case		36 S.Ct.
Cited by	365. U.S. v. Rollow 218 Fed.Appx. 790, 794+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Appeals. That district court's remand was more limited than authorized was harmless error.	Feb. 27, 2007	Case		20 S.Ct.
Cited by	 366. U.S. v. Jones  468 F.3d 704, 707+ , 10th Cir.(Wyo.) CRIMINAL JUSTICE - Instructions. There was no plain error in an incorrect jury instruction.	Nov. 08, 2006	Case		17 23 S.Ct.
Cited by	 367. U.S. v. Harlow 444 F.3d 1255, 1261+ , 10th Cir.(Wyo.) CRIMINAL JUSTICE - Prosecutorial Misconduct. Prosecutor improperly vouched for testimony of drug co-conspirators.	Apr. 26, 2006	Case		23 33 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	368. U.S. v. Oshobe 145 Fed.Appx. 243, 251 , 10th Cir.(Kan.) CRIMINAL JUSTICE - Fraud. Underlying credit card offense that defendant allegedly aided and abetted was not complete on placement of unauthorized order.	Aug. 15, 2005	Case		—
Cited by	369. U.S. v. Reyes-Corro 108 Fed.Appx. 595, 596 , 10th Cir.(Utah) CRIMINAL JUSTICE - Sentencing. 16-level sentence enhancement imposed upon defendant convicted of illegal re-entry was plain error.	Aug. 24, 2004	Case		23 S.Ct.
Cited by	370. U.S. v. Garcia 71 Fed.Appx. 781, 785 , 10th Cir.(Wyo.) CRIMINAL JUSTICE - Sentencing. Government's sentencing proof was sufficient to tie defendant to prior conviction.	July 28, 2003	Case		23 S.Ct.
Cited by	371. U.S. v. Reed 63 Fed.Appx. 454, 455 , 10th Cir.(Kan.) CRIMINAL JUSTICE - Sentencing. Sentence, which considered defendant's educational needs following revocation of release, was not plain error.	Apr. 22, 2003	Case		23 S.Ct.
Cited by	372. U.S. v. Haney 318 F.3d 1161, 1163+ , 10th Cir.(Colo.) CRIMINAL JUSTICE - Appeals. Defendant charged with possession of escape paraphernalia waived duress defense.	Feb. 04, 2003	Case		17 S.Ct.
Cited by	373. U.S. v. Avila-Reyes 42 Fed.Appx. 153, 159 , 10th Cir.(N.M.) CRIMINAL JUSTICE - Sentencing. Defendant's objections to presentence investigation report were untimely.	June 18, 2002	Case		21 23 S.Ct.
Cited by	374. U.S. v. Howe 42 Fed.Appx. 116, 118 , 10th Cir.(Colo.) CRIMINAL JUSTICE - Robbery. Evidence that bank was FDIC-insured was sufficient to support armed bank robbery conviction.	June 07, 2002	Case		23 S.Ct.
Cited by	375. U.S. v. Trabanino 41 Fed.Appx. 302, 305 , 10th Cir.(N.M.) CRIMINAL JUSTICE - Conspiracy. Evidence of conspiracy was sufficient to sustain conviction.	May 21, 2002	Case		23 S.Ct.
Cited by	376. U.S. v. Bailey 286 F.3d 1219, 1222 , 10th Cir.(Okla.) CRIMINAL JUSTICE - Postconviction Relief. Apprendi error would not have been plain on direct appeal and thus did not satisfy standard for collateral relief.	Apr. 18, 2002	Case		21 23 S.Ct.
Cited by	377. U.S. v. Washington 38 Fed.Appx. 522, 524 , 10th Cir.(Kan.) CRIMINAL JUSTICE - Probation. Hearsay testimony was sufficiently reliable to justify revocation of supervised release.	Mar. 27, 2002	Case		21 23 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 378. <u>Bristol v. Board of County Com'rs of County of Clear Creek</u> 281 F.3d 1148, 1167 , 10th Cir.(Colo.) LABOR AND EMPLOYMENT - Discrimination. Question whether impairment "substantially limits" ADA plaintiff is for jury, not court.	Feb. 26, 2002	Case		23 S.Ct.
Cited by	 379. <u>U.S. v. Walters</u> 269 F.3d 1207, 1217 , 10th Cir.(Utah) CRIMINAL JUSTICE - Discovery. Nondisclosure of report showing firearm to be stolen did not violate government's Brady obligations.	Oct. 31, 2001	Case		18 S.Ct.
Cited by	380. <u>U.S. v. Jackson</u> 28 Fed.Appx. 779, 780 , 10th Cir.(Okla.) CRIMINAL JUSTICE - Drugs. District court's imposition of 226-month sentence on defendant who had pled guilty to distribution of cocaine base was not plain error.	Oct. 25, 2001	Case		23 S.Ct.
Cited by	 381. <u>U.S. v. Combs</u>  267 F.3d 1167, 1181 , 10th Cir.(N.M.) CRIMINAL JUSTICE - Witnesses. Failure to disclose prosecution witness's drug use was not a Brady violation.	Oct. 12, 2001	Case		23 S.Ct.
Cited by	 382. <u>Humphreys v. Gibson</u> 261 F.3d 1016, 1025+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Death Penalty. Interpretation of aggravator for committing murder while serving prison sentence was not overbroad.	Aug. 21, 2001	Case		34 S.Ct.
Cited by	 383. <u>Cannon v. Gibson</u>  259 F.3d 1253, 1272 , 10th Cir.(Okla.) CRIMINAL JUSTICE - Searches and Seizures. Explicit findings that search was valid were not required when court's determination implicitly supported such result.	Aug. 07, 2001	Case		26 28 S.Ct.
Cited by	384. <u>U.S. v. Guebara</u>  15 Fed.Appx. 584, 590 , 10th Cir.(Kan.) CRIMINAL JUSTICE - Searches and Seizures. Reasonable suspicion existed justifying investigatory stop of vehicle.	June 05, 2001	Case		21 23 S.Ct.
Cited by	385. <u>Romano v. Gibson</u> 239 F.3d 1156, 1168+ , 10th Cir.(Okla.) CRIMINAL JUSTICE - Discovery. There was no Brady violation in failing to disclose officer's unrecorded recollection allegedly supporting alibi.	Feb. 13, 2001	Case		36 S.Ct.
Cited by	386. <u>U.S. v. Jacob</u> 242 F.3d 391, 391 , 10th Cir.(N.M.) After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See...	Nov. 13, 2000	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	387. <u>Bradley v. United States</u> 676 Fed.Appx. 895, 907 , 11th Cir.(Ga.) CRIMINAL JUSTICE - Jury. Judge's ex parte response to jury question requesting clarification between the acts of a company and of an owner prejudiced defendant.	Jan. 19, 2017	Case		26 S.Ct.
Cited by	388. <u>United States v. DiFalco</u> 837 F.3d 1207, 1221 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Pleas. Defendant knowingly and voluntarily waived his right to challenge government's failure to comply with statute requiring it to file proper information.	Sep. 20, 2016	Case		21 23 33 S.Ct.
Cited by	389. <u>United States v. Gonzalez</u> 834 F.3d 1206, 1219+ , 11th Cir.(Fla.) CRIMINAL JUSTICE - Conspiracy. Evidence was sufficient to support convictions for conspiracy to defraud United States and conspiracy to commit health care fraud.	Aug. 23, 2016	Case		23 26 S.Ct.
Cited by	390. <u>U.S. v. Estrada</u> 643 Fed.Appx. 912, 916+ , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. Sentencing judge's erroneous statement as to number of illegal reentry defendant's deportations did not violate due process.	Feb. 24, 2016	Case		21 33 S.Ct.
Cited by	391. <u>U.S. v. Troya</u> 733 F.3d 1125, 1133 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Evidence. Evidence of shootings into residences, not intrinsic to charged offense, was admissible to show intent to possess firearms.	Oct. 02, 2013	Case		6 S.Ct.
Cited by	392. <u>U.S. v. Delvalle</u> 444 Fed.Appx. 336, 341 , 11th Cir.(Ga.) CRIMINAL JUSTICE - Weapons. Court erred in responding to note from jury in weapons possession trial.	Sep. 20, 2011	Case		21 22 23 S.Ct.
Cited by	393. <u>Land v. Allen</u> 573 F.3d 1211, 1219 , 11th Cir.(Ala.) CRIMINAL JUSTICE - Instructions. Trial court's voluntariness instruction on capital murder defendant's confession did not violate due process.	July 10, 2009	Case		24 S.Ct.
Cited by	394. <u>U.S. v. Vanegas</u> 294 Fed.Appx. 537, 542 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Fraud. Evidence was insufficient to support conviction for conspiracy to defraud the United States.	Sep. 25, 2008	Case		17 22 23 S.Ct.
Cited by	395. <u>U.S. v. Beltran-Gabito</u> 280 Fed.Appx. 861, 862 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. District court did not err in increasing offense level in illegal reentry case based on prior aggravated felony conviction.	June 03, 2008	Case		17 22 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	396. U.S. v. Underwood 446 F.3d 1340, 1344 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Confrontation. Admission of recorded conversations between co-conspirator and informant did not violate the Confrontation Clause.	Apr. 25, 2006	Case		33 S.Ct.
Cited by	397. U.S. v. Gooding Munoz 154 Fed.Appx. 120, 122 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. The court did not clearly err in denying a sentence reduction for playing a minor role in the offense of heroin importation.	Sep. 30, 2005	Case		17 S.Ct.
Cited by	398. U.S. v. Demarick 140 Fed.Appx. 163, 164 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. Fact that sentence was on low end of sentencing range was insufficient to establish that Booker error was plain.	July 12, 2005	Case		33 S.Ct.
Cited by	399. U.S. v. White 136 Fed.Appx. 227, 229 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Pleas. The defendant waived his right to appeal the denial of his motion to suppress evidence by unconditionally pleading guilty.	June 08, 2005	Case		33 S.Ct.
Cited by	 400. U.S. v. Buonsignore 131 Fed.Appx. 252, 260 , 11th Cir.(Ga.) CRIMINAL JUSTICE - Confrontation. Admitting expert testimony regarding heroin's value, in violation of Confrontation Clause, was harmless error.	May 13, 2005	Case		23 S.Ct.
Cited by	 401. U.S. v. Duncan 400 F.3d 1297, 1302 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Sentencing. District court's Booker error did not rise to level of plain error.	Feb. 24, 2005	Case		33 S.Ct.
Cited by	402. U.S. v. Simpson  228 F.3d 1294, 1300+ , 11th Cir.(Ala.) CRIMINAL JUSTICE - Sentencing. Amount of cocaine distributed prior to charged conspiracy attributable to defendant for sentencing.	Sep. 29, 2000	Case		23 S.Ct.
Cited by	 403. U.S. v. Campbell  223 F.3d 1286, 1288+ , 11th Cir.(Fla.) CRIMINAL JUSTICE - Evidence. Admission of hearsay statement by customs agent did not amount to plain error.	Aug. 22, 2000	Case		23 S.Ct.
Cited by	404. U.S. v. Miranda 197 F.3d 1357, 1360 , 11th Cir.(Fla.) CRIMINAL JUSTICE - Currency Violations. Invalidity of conspiracy conviction did not have spillover effect on money laundering conviction.	Dec. 15, 1999	Case		23 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 405. <u>Finjan, Inc. v. Secure Computing Corp.</u> 626 F.3d 1197, 1209 , Fed.Cir.(Del.) PATENTS - Computers and Electronics. Patentee's failure to allege indirect infringement was not fatal to its claim that competitor infringed patents' "system" claims.	Nov. 04, 2010	Case		32 S.Ct.
Cited by	406. <u>United States v. Vega</u>  826 F.3d 514, 525 , D.C.Cir. CRIMINAL JUSTICE - Drugs. Evidence supported finding that defendants in Colombian drug operation knew that cocaine would be imported to United States.	June 24, 2016	Case		26 S.Ct.
Cited by	407. <u>U.S. v. Purvis</u>  706 F.3d 520, 523 , D.C.Cir. CRIMINAL JUSTICE - Self-Defense. Self-defense jury instruction was not erroneous.	Feb. 12, 2013	Case		24 S.Ct.
Cited by	 408. <u>U.S. v. Linares</u>  367 F.3d 941, 948 , D.C.Cir. CRIMINAL JUSTICE - Weapons. Defendant's prior possession of gun could not be used to prove knowledge or absence of mistake.	May 18, 2004	Case		—
Cited by	409. <u>U.S. v. Golden</u> 89 Fed.Appx. 271, 272 , D.C.Cir. This cause was considered on the record from the United States District Court and on the briefs of the parties. It is ORDERED AND ADJUDGED that Golden's appeal be denied. ...	Mar. 03, 2004	Case		17 S.Ct.
Cited by	 410. <u>Jenkins v. Allen</u>  2016 WL 4540920, *115+ , N.D.Ala. The petitioner, Mark Allen Jenkins ("Jenkins"), seeks habeas corpus relief from his state court capital murder conviction and death sentence. See 28 U.S.C. § 2254. I. PROCEDURAL...	Aug. 31, 2016	Case		24 27 S.Ct.
Cited by	411. <u>Davis v. Allen</u> 2016 WL 3014784, *118 , N.D.Ala. The petitioner, Jimmy Davis, Jr. ("Davis"), seeks habeas corpus relief from his state court capital murder conviction and death sentence. See 28 U.S.C. § 2254. I. PROCEDURAL...	May 26, 2016	Case		24 S.Ct.
Cited by	 412. <u>Giles v. Culliver</u> 2013 WL 1346380, *89+ , N.D.Ala. This opinion addresses the petition filed by Arthur Lee Giles pursuant to 28 U.S.C. § 2254, seeking relief in the nature of habeas corpus from his state court conviction for...	Apr. 03, 2013	Case		24 S.Ct.
Cited by	413. <u>Taylor v. Culliver</u>  2012 WL 4479151, *73 , N.D.Ala. This action seeks habeas corpus relief with respect to Petitioner Michael Shannon Taylor's ("Taylor" or "Petitioner") state court conviction and death sentence on three counts...	Sep. 26, 2012	Case		24 27 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 414. <u>Styers v. Schriro</u> ” 2007 WL 86944, *5 , D.Ariz. Petitioner James Lynn Styers has filed a petition for writ of habeas corpus alleging that he is imprisoned and sentenced to death in violation of the United States Constitution....	Jan. 10, 2007	Case		—
Cited by	 415. <u>U.S. v. Lee</u> 89 F.Supp.2d 1017, 1022+ , E.D.Ark. CRIMINAL JUSTICE - Death Penalty. Deputy Attorney General did not have authority to make decision under Death Penalty Protocol.	Mar. 21, 2000	Case		—
Cited by	 416. <u>Mills v. Swarthout</u> 2017 WL 4355073, *11 , N.D.Cal. On May 12, 2009, Petitioner Ahkin Mills was convicted of first degree murder with personal use of a firearm. ECF No. 12-5 at 106. On May 20, 2009, the jury found Mills legally sane...	Sep. 29, 2017	Case		24 S.Ct.
Cited by	417. <u>Reno v. Davis</u> ” 2017 WL 4863071, *53 , C.D.Cal. Petitioner Reno (“Petitioner”) was first convicted, after waiving his right to a jury trial, in 1979 of the first degree murders of Carl Carter, Jr., and Ralph Chavez and the...	Aug. 15, 2017	Case		9 10 S.Ct.
Cited by	418. <u>U.S.A. v. Dorsey</u> 2017 WL 3159981, *11 , C.D.Cal. On June 3, 2014, a federal grand jury indicted defendants Reginald Bailey and Dominic Dorsey with one count of conspiracy to interfere with interstate commerce by robbery, in...	July 24, 2017	Case		32 S.Ct.
Cited by	419. <u>United States v. Katakis</u> 252 F.Supp.3d 988, 997 , E.D.Cal. CRIMINAL JUSTICE - Evidence. Evidence regarding defendant's attempts to delete e-mails after learning about investigation into bid rigging did not result in prejudicial spillover.	May 11, 2017	Case		24 26 S.Ct.
Cited by	 420. <u>Olney v. Progressive Cas. Ins. Co.</u> ” 993 F.Supp.2d 1220, 1223 , S.D.Cal. ENERGY AND UTILITIES - Telecommunications. Standing under Telephone Consumer Protection Act (TCPA) was not limited to intended recipient of call.	Jan. 24, 2014	Case		19 S.Ct.
Cited by	421. <u>Din v. Hedgepeth</u> ” 2010 WL 4924730, *11 , C.D.Cal. This Report and Recommendation is submitted to the Honorable R. Gary Klausner, United States District Judge, by Magistrate Judge Rosalyn M. Chapman, pursuant to the provisions of...	Oct. 28, 2010	Case		27 28 S.Ct.
Cited by	422. <u>Beenblossom v. Jacquez</u> 2010 WL 915211, *8 , E.D.Cal. Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The parties have voluntarily consented to exercise of...	Mar. 11, 2010	Case		32 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	423. <u>Perez v. Jacquez</u> 2010 WL 475453, *15 , E.D.Cal. Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is currently in the custody of the California...	Feb. 04, 2010	Case		32 S.Ct.
Cited by	424. <u>Ray v. Kernan</u> 646 F.Supp.2d 1102, 1131 , N.D.Cal. CRIMINAL JUSTICE - Habeas Corpus. Jury instruction on intent did not warrant federal habeas relief.	Jan. 22, 2009	Case		27 28 S.Ct.
Cited by	425. <u>Richardson v. Finn</u> 2008 WL 4952554, *12 , E.D.Cal. Pending before the Court is Petitioner Michael Richardson's ("Petitioner") application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254(a) (No. 18), Claud Finn's...	Nov. 18, 2008	Case		21 31 33 S.Ct.
Cited by	426. <u>U.S. v. Milburn</u> 2008 WL 3892133, *5 , N.D.Cal. In this RICO gang prosecution, defendants Edgar Diaz and Emile Fort have been authorized for a death-penalty prosecution. Defendant Raymon Milburn, who was more recently...	Aug. 20, 2008	Case		1 S.Ct.
Cited by	427. <u>Monkres v. Martel</u> 2008 WL 744935, *7 , N.D.Cal. Petitioner Bryan Randall Monkres, a state prisoner incarcerated at Mule Creek State Prison (MCSP) in Iona, California, filed a pro se petition for a writ of habeas corpus pursuant...	Mar. 18, 2008	Case		27 28 S.Ct.
Cited by	428. <u>U.S. v. Littrell</u> 478 F.Supp.2d 1179, 1186+ , C.D.Cal. CRIMINAL JUSTICE - Death Penalty. The government's decision to seek the death penalty against the defendant was arbitrary and capricious.	Mar. 22, 2007	Case		11 S.Ct.
Cited by	429. <u>Garibay v. Lewis</u> 2007 WL 405032, *16 , N.D.Cal. Petitioner Raul Garibay, a state prisoner incarcerated at Pleasant Valley State Prison, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254...	Feb. 02, 2007	Case		27 28 S.Ct.
Cited by	430. <u>Smith v. Pliler</u> 278 F.Supp.2d 1060, 1078 , N.D.Cal. CRIMINAL JUSTICE - Homicide. There was sufficient evidence of premeditation to support first degree murder conviction.	Aug. 15, 2003	Case		27 28 S.Ct.
Cited by	431. <u>Sanders v. Woodford</u> 2001 WL 34882452, *40 , E.D.Cal. Petitioner Ronald L. Sanders ("Sanders") filed an application for a federal stay of execution and for appointment of counsel on July 13, 1992. Sanders filed his first federal...	Aug. 24, 2001	Case		31 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	432. <u>Gilmore v. Dunbar</u> 2008 WL 544737, *4, D.Colo. THIS MATTER comes before the Court on the Petitioner's Amended Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (# 7), which the Magistrate Judge recommends (#...	Feb. 26, 2008	Case		21 S.Ct.
Cited by	433. <u>U.S. v. Sablan</u> 2006 WL 3190519, *2, D.Colo. THIS MATTER is before the Court on William Sablan's Motion for Reconsideration of the Court's Ruling Allowing the Government to Present Evidence of Underlying Conduct Relating to...	Nov. 02, 2006	Case		35 S.Ct.
Cited by	434. <u>United States v. Duckett</u> 2017 WL 6001491, *10, D.Conn. On July 6, 2017, a jury convicted James C. Duckett, Jr. of one count of conspiracy to commit mail or wire fraud in violation of 18 U.S.C. § 1349, three counts of wire fraud in...	Dec. 04, 2017	Case		21 22 S.Ct.
Cited by	435. <u>U.S. v. Aquart</u> 2012 WL 603243, *2+, D.Conn. Defendant Azibo Aquart moves [Doc. # 952] the Court for a new penalty proceeding, arguing that the Government's penalty phase summations unconstitutionally undermined the jury's...	Feb. 24, 2012	Case		14 S.Ct.
Cited by	436. <u>U.S. v. Perez</u> 2004 WL 935260, *5, D.Conn. Defendants Wilfredo Perez and Fausto Gonzalez are charged in connection with the murder of Theodore Casiano with a violation of 18 U.S.C. § 1958 for Conspiracy to Commit...	Apr. 29, 2004	Case		—
Cited by	437. <u>Cordis Corp. v. Medtronic Ave, Inc.</u> 2002 WL 1022509, *2, D.Del. At Wilmington, this 15th day of May, 2002, having reviewed the parties' motions for reconsideration of the court's opinion and order dated March 28, 2002; IT IS ORDERED that: 1....	May 15, 2002	Case		—
Cited by	438. <u>Preston v. Secretary, Dept. of Corrections</u> 2012 WL 1549529, *27, M.D.Fla. This case is before the Court on the Petition for Habeas Corpus Relief (Doc. No. 1) filed by Robert Anthony Preston, Jr. Pursuant to the instructions of the Court, Respondents...	May 01, 2012	Case		36 S.Ct.
Cited by	439. <u>Farina v. Secretary, Dept. of Corrections</u> 2012 WL 1016723, *30+, M.D.Fla. This case is before the Court on the Amended Petition for Habeas Corpus Relief (Doc. No. 49) filed by Anthony Joseph Farina. Pursuant to the instructions of the Court, Respondents...	Mar. 26, 2012	Case		35 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	440. <u>Smithers v. Secretary, Dept. of Corrections</u> ¶ 2011 WL 2446576, *26+ , M.D.Fla. This cause is before the Court on Samuel L. Smithers' timely-filed 28 U.S.C. § 2254 petition for writ of habeas corpus. Smithers, a Florida prisoner sentenced to death, challenges...	June 15, 2011	Case		35 S.Ct.
Cited by	441. <u>U.S. v. Troya</u> 2008 WL 4327004, *9+ , S.D.Fla. THIS CAUSE is before the Court on general Order of Reference from United States District Judge Daniel T.K. Hurley for disposition of all pending pretrial criminal motions. Pending...	Sep. 22, 2008	Case		35 S.Ct.
Cited by	442. <u>Archer v. McDonough</u> ¶ 2008 WL 616115, *7+ , N.D.Fla. THIS CAUSE is before the court on an amended petition for a writ of habeas corpus filed by Robin Lee Archer, a Florida death row inmate, pursuant to Title 28, United States Code,...	Mar. 03, 2008	Case		35 36 S.Ct.
Cited by	443. <u>U.S. v. Potts</u> 2007 WL 1655458, *9+ , N.D.Fla. This cause comes on for consideration upon the magistrate judge's report and recommendation dated April 27, 2007. The defendant previously has been furnished a copy of the report...	June 05, 2007	Case		23 33 S.Ct.
Cited by	444. <u>U.S. v. Denis</u> 246 F.Supp.2d 1250, 1252 , S.D.Fla. CRIMINAL JUSTICE - Death Penalty. The Federal Death Penalty Act (FDPA) provided sufficient due process protections.	Dec. 03, 2002	Case		30 S.Ct.
Cited by	445. <u>Sears v. Chatman</u> ¶ 2017 WL 2644478, *11+ , N.D.Ga. This matter is before the Court on Petitioner Demarcus Ali Sears' ("Petitioner") Motions for Discovery and an Evidentiary Hearing [38], and Respondent Bruce Chatman's...	June 20, 2017	Case		10 S.Ct.
Cited by	446. <u>Pleasant v. Neesmith Timber Company, Inc.</u> 2011 WL 13192732, *5+ , S.D.Ga. Plaintiff Kenneth Pleasant ("Plaintiff") filed this personal injury tort action against Defendant Neesmith Timber Company, Inc. ("Defendant") in the District Court for the...	May 27, 2011	Case		13 S.Ct.
Cited by	447. <u>Parker v. Turpin</u> 60 F.Supp.2d 1332, 1356 , N.D.Ga. Following reversal of defendant's rape conviction and affirmance of his murder conviction and death sentence, 350 S.E.2d 570 defendant filed petition for writ of habeas corpus. The...	Aug. 13, 1999	Case		28 S.Ct.
Cited by	448. <u>U.S. v. Williams</u> ¶ 2010 WL 3156069, *6 , D.Hawai'i Pursuant to Local Rule 7.2(d), the Court finds this matter suitable for disposition without a hearing. After reviewing the motions and supporting and opposing memoranda, the Court...	Aug. 05, 2010	Case		35 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	449. <u>Hairston v. Blades</u>  2011 WL 1219267, *13, D.Idaho The Court previously dismissed several claims in this capital habeas corpus matter as procedurally defaulted or lacking in merit. (Dkt.125.) Currently before the Court is the...	Mar. 30, 2011	Case	   	35 S.Ct.
Cited by	 450. <u>U.S. v. Duncan</u> 2008 WL 711603, *3+, D.Idaho Pending before the Court is the Defendant's Motion to Declare the Federal Death Penalty Act Unconstitutional, To Dismiss the Aggravators and the Death Penalty Notice. The...	Mar. 14, 2008	Case	   	34 35 S.Ct.
Cited by	451. <u>Rhoades v. Arave</u> 2007 WL 1550441, *27, D.Idaho Paul Ezra Rhoades has been convicted of murder, and other associated felonies, for the shooting deaths of Stacy Baldwin, Susan Michelbacher, and Nolan Haddon, all of whom were...	May 24, 2007	Case	   	—
Cited by	452. <u>McCoy v. Korte</u> 2016 WL 4945072, *6+, N.D.Ill. Stephen McCoy, who is serving consecutive ten- and fifteen-year terms in Illinois state prison for attempted first degree murder and aggravated battery with a firearm, petitions...	Sep. 16, 2016	Case	   	10 S.Ct.
Cited by	453. <u>U.S. ex rel. Taylor v. Pierson</u> 2003 WL 22220135, *9, N.D.Ill. Following a jury trial in the Circuit Court of Cook County, petitioner Malik Taylor was convicted of first degree murder, home invasion, and two counts of armed robbery. He was...	Sep. 25, 2003	Case	   	13 S.Ct.
Cited by	454. <u>U.S. v. Mikos</u> 2003 WL 22110948, *10+, N.D.Ill. Before this court are defendant, Ronald A. Mikos's motions to declare the Federal Death Penalty Act of 1994 unconstitutional. For the reasons provided in this memorandum opinion...	Sep. 11, 2003	Case	   	6 S.Ct.
Cited by	455. <u>U.S. ex rel. Jones v. Chrans</u> 187 F.Supp.2d 993, 1013+, N.D.Ill. CRIMINAL JUSTICE - Habeas Corpus. State appellate determination that ex parte communications were harmless was not contrary to federal law.	Feb. 06, 2002	Case	   	—
Cited by	456. <u>U.S. v. Briseño</u>  2015 WL 163526, *8+, N.D.Ind. The government seeks the death penalty against defendant Juan Briseño having filed a notice of intent to seek it pursuant to 28 U.S.C. § 3593(a) (the "NOI"), which was later...	Jan. 12, 2015	Case	   	34 35 S.Ct.
Cited by	457. <u>U.S. v. Brown</u> 2008 WL 4965152, *7, S.D.Ind. Before the court are nine (9) motions filed by Defendant related to the Government's Notice of Intent to Seek the Death Penalty. They are: (1) Defendant Brown's Motion for...	Nov. 18, 2008	Case	   	—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 458. <u>Stevens v. McBride</u>  492 F.Supp.2d 928, 960 , N.D.Ind. CRIMINAL JUSTICE - Counsel. Counsel's failure to familiarize themselves with mental health expert in murder trial was not ineffective assistance.	Jan. 13, 2005	Case		11 S.Ct.
Cited by	459. <u>U.S. v. Taylor</u>  316 F.Supp.2d 730, 734+ , N.D.Ind. CRIMINAL JUSTICE - Death Penalty. Especially heinous murder sentence aggravating factor was facially constitutional.	May 03, 2004	Case		34 35 36 S.Ct.
Cited by	460. <u>U.S. v. Amaya</u> 2012 WL 3288082, *12 , N.D.Iowa As one defendant asserts, this case, involving drug conspiracy and money-laundering conspiracy charges, was jinxed from the outset. The first two jury trials resulted in mistrials...	Aug. 10, 2012	Case		23 S.Ct.
Cited by	 461. <u>U.S. v. Johnson</u>  362 F.Supp.2d 1043, 1108 , N.D.Iowa CRIMINAL JUSTICE - Death Penalty. "Trifurcation" of proceedings employed in death-penalty case to avoid potential unfair prejudice.	Feb. 18, 2005	Case		—
Cited by	 462. <u>U.S. v. Schneider</u> 157 F.Supp.2d 1044, 1067+ , N.D.Iowa CRIMINAL JUSTICE - Arguments and Opening Statement. Prosecutor's improper comments warranted new trial.	Aug. 29, 2001	Case		28 S.Ct.
Cited by	463. <u>Tunstall v. Hopkins</u> 126 F.Supp.2d 1196, 1205 , N.D.Iowa CRIMINAL JUSTICE - Jury. Federal presumption of prejudice arising from jurors' midtrial exposure to publicity did not apply to state proceedings.	Dec. 27, 2000	Case		32 S.Ct.
Cited by	464. <u>U.S. v. Cheever</u> 2006 WL 1360519, *1+ , D.Kan. This case comes before the court on defendant's motion to strike the gateway intent factors and the statutory aggravating factors from both the indictment and the government's...	May 18, 2006	Case		34 35 36 S.Ct.
Cited by	465. <u>U.S. v. Hargrove</u> 2005 WL 1041340, *2+ , D.Kan. Pending before the court are defendant's Request that the Court Rule Favorably Upon Hargrove's Alternative Request that the Government be Prohibited from Presenting "Information"...	Feb. 25, 2005	Case		34 35 S.Ct.
Cited by	466. <u>Willoughby v. Simpson</u> 2014 WL 4269115, *19+ , E.D.Ky. This matter is before the Court on the petition of Mitchell Willoughby, by counsel, for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On July 22, 1983, a state-court jury...	Aug. 29, 2014	Case		26 27 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	467. U.S. v. Green 2008 WL 4000943, *4+ , W.D.Ky. This matter is before the Court upon the Defendant's Motion to Declare the Federal Death Penalty Act Unconstitutional Because it is Arbitrary; Violates Evolving Standards of...	Aug. 26, 2008	Case		2 25 28 S.Ct.
Cited by	468. Espinosa-Jimenez v. U.S. 2008 WL 594561, *23 , W.D.Ky. This matter is before the court for review of the Findings of Fact, Conclusions of Law, and Recommendation of the magistrate judge pursuant to 28 U.S.C. § 236(b)(1)(B). In a very...	Feb. 29, 2008	Case		22 23 S.Ct.
Cited by	469. Roussell v. Caldwell 2017 WL 2790701, *15 , E.D.La. This matter was referred to this United States Magistrate Judge for the purpose of conducting a hearing, including an evidentiary hearing, if necessary, and submission of proposed...	June 07, 2017	Case		32 S.Ct.
Cited by	470. United States v. Reed 2016 WL 6946983, *42 , E.D.La. Pending before the Court are Motions for Judgment of Acquittal and Arrest of Judgment (R. Doc. 261) and for New Trial (R. Doc. 263) filed by Defendant Walter Reed (W. Reed), and a...	Nov. 28, 2016	Case		13 16 S.Ct.
Cited by	471. U.S. v. Sanders 2014 WL 3122418, *5+ , W.D.La. Before the Court is a Motion to Dismiss "Notice of Special Findings" in Superseding Indictment and to Strike Notice of Intent to Seek the Death Penalty (Doc. 156) filed by...	July 03, 2014	Case		35 S.Ct.
Cited by	472. Austin v. Cain 2009 WL 6319555, *11 , E.D.La. This matter was referred to the United States Magistrate Judge for the purpose of conducting hearings, including an evidentiary hearing, if necessary, and submission of proposed...	Oct. 16, 2009	Case		32 S.Ct.
Cited by	473. Perez v. Cain 2008 WL 108661, *22 , E.D.La. Now before the Court is a petition for habeas corpus relief by Mr. Salvador Perez (hereafter "Petitioner"), pursuant to 28 U.S.C. § 2254. Petitioner seeks relief from a March 14,...	Jan. 08, 2008	Case		6 S.Ct.
Cited by	474. U.S. v. Armstrong 2007 WL 809509, *10 , E.D.La. Before the Court is Defendants Cherlyn Armstrong Scherer Prejean ("Prejean"), the Scherer Corporate Defendants, and Dr. Suzette Cullin's ("Cullins" and together, the...	Mar. 14, 2007	Case		15 S.Ct.
Cited by	475. United States v. Sampson 2016 WL 8936153, *2+ , D.Mass. Before the Court is the Defendant Gary Lee Sampson's Motion in Limine to Dismiss or Strike Certain Statutory and Non-Statutory Aggravating Factors from Government's Amended Notice...	Apr. 11, 2016	Case		36 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	476. <u>Oken v. Nuth</u> 64 F.Supp.2d 488, 510+ , D.Md. Petitioner convicted of capital murder in state court brought habeas petition. The District Court, Messitte, J., held that (1) pre-trial issues of search warrant adequacy and jury...	Aug. 30, 1999	Case		3 8 12 S.Ct.
Cited by	 477. <u>Shannon v. Sasseeville</u> 684 F.Supp.2d 169, 176 , D.Me. TORTS - Damages. Jury properly considered acts against non-parties in awarding punitive damages in tort action arising from sexual abuse.	Feb. 12, 2010	Case		32 S.Ct.
Cited by	478. <u>Dorrough v. Olson</u> 2017 WL 5479465, *3 , E.D.Mich. This is a habeas case brought pursuant to 28 U.S.C. § 2254. Michigan prisoner Raphel Dorrough ("Petitioner") was convicted of operating a motor vehicle while intoxicated causing...	Nov. 15, 2017	Case		26 S.Ct.
Cited by	 479. <u>Beltowski v. Brewer</u> 2017 WL 5467734, *9 , E.D.Mich. This is a habeas case filed by a Michigan prisoner under 28 U.S.C. § 2254. Petitioner Kevin Michael-Dorman Beltowski was convicted after a jury trial in the Wayne Circuit Court of...	Nov. 14, 2017	Case		26 S.Ct.
Cited by	 480. <u>Davis v. Woods</u> 2017 WL 3616486, *11 , E.D.Mich. Deontae Travohn Davis, ("petitioner"), confined at the Kinross Correctional Facility in Kincheloe, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C....	Aug. 23, 2017	Case		26 S.Ct.
Cited by	481. <u>Moore v. Bauman</u> 2017 WL 3263463, *7 , E.D.Mich. Michigan prisoner Deandre Lajuan Moore ("Petitioner") has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted of first-degree...	July 31, 2017	Case		26 S.Ct.
Cited by	482. <u>Golden v. Haas</u> 2017 WL 2645782, *6 , E.D.Mich. Michigan prisoner Cordale Golden ("Petitioner") has filed a pro se Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 asserting that he is being held in violation of...	June 20, 2017	Case		26 S.Ct.
Cited by	483. <u>Williams v. Jackson</u> 2017 WL 1493012, *14 , E.D.Mich. Johnny L. Williams, ("Petitioner"), incarcerated at the Brooks Correctional Facility in Muskegon Heights, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C....	Apr. 26, 2017	Case		26 S.Ct.
Cited by	484. <u>Gourlay v. Barrett</u> 2017 WL 1329434, *5 , E.D.Mich. This matter is before the Court on petitioner Kenneth Gourlay's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his application, petitioner challenges his...	Apr. 11, 2017	Case		26 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	485. <u>Christian v. Romanowski</u> 2017 WL 588458, *11 , E.D.Mich. Matthew Lane Christian ("Petitioner") filed through his attorney Sandra L. Girard a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on August 13, 2015. Dkt. No....	Feb. 14, 2017	Case		26 S.Ct.
Cited by	486. <u>Allen v. Haas</u> 2016 WL 6995726, *6 , E.D.Mich. Joel Anthony Allen, ("Petitioner"), confined at the Macomb Correctional Facility in New Haven, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254,...	Nov. 30, 2016	Case		26 S.Ct.
Cited by	487. <u>Harris v. Bauman</u> 2016 WL 4191759, *6 , E.D.Mich. Leon Harris ("Petitioner"), confined at the Oaks Correctional Facility in Manistee, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his...	Aug. 09, 2016	Case		26 S.Ct.
Cited by	488. <u>Dobbs v. Berghuis</u> 2016 WL 4089217, *6 , E.D.Mich. This is a habeas case brought pursuant to 28 U.S.C. § 2254. Petitioner Cedric Dobbs was convicted of three counts assault with intent to murder, Mich. Comp. Laws § 750.83; two...	Aug. 02, 2016	Case		26 S.Ct.
Cited by	489. <u>Montgomery v. Woods</u> 2016 WL 3626808, *2 , E.D.Mich. Following a jury trial in Wayne County Circuit Court, prisoner Cleotha Montgomery ("Petitioner") was convicted of assault with intent to do great bodily harm less than murder,...	July 07, 2016	Case		26 S.Ct.
Cited by	490. <u>Poole v. Warren</u> 2016 WL 9330714, *12 , E.D.Mich. Petitioner Carol Poole ("Poole"), confined at the Huron Valley Correctional Facility, seeks habeas relief pursuant to 28 U.S.C. § 2254. She challenges her convictions for...	May 11, 2016	Case		26 S.Ct.
Cited by	491. <u>Hall v. Rivard</u> 2016 WL 1258990, *9 , E.D.Mich. Dennis Anthony Hall, ("Petitioner"), confined at the Oaks Correctional Facility in Manistee, Michigan, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254....	Mar. 31, 2016	Case		26 S.Ct.
Cited by	492. <u>Bell v. Bauman</u> 2016 WL 540721, *4 , E.D.Mich. Joie Rayshawn Bell, ("Petitioner"), confined at the Kinross Correctional Facility, in Kincheloe, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254....	Feb. 11, 2016	Case		26 S.Ct.
Cited by	493. <u>Kosik v. Perry</u> 2015 WL 8478484, *6 , E.D.Mich. Dustin John Kosik, ("Petitioner"), confined at the Newberry Correctional Facility in Newberry, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. In his pro...	Dec. 10, 2015	Case		26 S.Ct.

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	494. <u>Nickerson v. Gidley</u> 2015 WL 7756148, *8 , E.D.Mich. Petitioner Christopher Scott Nickerson ("Petitioner") has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, through his attorney, David A. Dodge....	Dec. 02, 2015	Case		—
Cited by	495. <u>Jade v. Scutt</u> 2015 WL 6470862, *5 , E.D.Mich. Mara Katyln Jade ("Petitioner"), a prisoner formerly in the custody of the Michigan Department of Corrections, seeks the issuance of a writ of habeas corpus pursuant to 28 U.S.C....	Oct. 27, 2015	Case		26 S.Ct.
Cited by	496. <u>Blackshere v. Maclaren</u> 2015 WL 3915759, *2 , E.D.Mich. Justin Blackshere, ("Petitioner"), presently confined at the Chippewa Correctional Facility in Kincheloe, Michigan, has filed a pro se petition for writ of habeas corpus pursuant...	June 25, 2015	Case		26 S.Ct.
Cited by	497. <u>Allen v. Rapelje</u> 2015 WL 3580737, *7 , E.D.Mich. Petitioner Bernard Allen, confined at the Saginaw Correctional Facility in Freeland, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt.2),...	June 05, 2015	Case		26 S.Ct.
Cited by	498. <u>Guajardo v. Rapelje</u> 2015 WL 1491729, *4 , E.D.Mich. Juan M. Guajardo, Jr., ("Petitioner"), confined at the Saginaw Correctional Facility in Freeland, Michigan, filed a pro se petition for a writ of habeas corpus pursuant to 28...	Mar. 31, 2015	Case		26 S.Ct.
Cited by	499. <u>Huntington v. Romanowski</u> 2015 WL 871184, *3 , E.D.Mich. Petitioner Darius Huntington, currently confined at the Lakeland Correctional Facility in Coldwater, Michigan, filed a pro se petition for writ of habeas corpus pursuant to 28...	Feb. 27, 2015	Case		26 S.Ct.
Cited by	500. <u>Ball v. Rapelje</u> 2014 WL 5499566, *9 , E.D.Mich. Petitioner Randall Ball, confined at the Pugsley Correctional Facility in Kingsley, Michigan, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Dkt.1). In...	Oct. 30, 2014	Case		26 S.Ct.