(ORDER LIST: 592 U.S.)

MONDAY, OCTOBER 19, 2020

ORDERS IN PENDING CASES

20M28 MARCUS, GLENDA V. MARCUS, SYLVESTER

20M29 WARREN, LAWANDA V. KENNECTION INSTALLATION, ET AL.

20M30 SYKES, DERRY V. NY OFFICE OF CHILDREN, ET AL.

20M31 STRINGER, ANTHONY A. V. LINCOLN COUNTY JAIL, ET AL.

20M32 ROSE, RICHARD W. V. DEPT. OF JUSTICE

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

19-5807 EDWARDS, THEDRICK V. VANNOY, WARDEN

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

20-28 PRICEWATERHOUSECOOPERS, ET AL. V. LAURENT, TIMOTHY, ET AL.

The Acting Solicitor General is invited to file a brief in this case expressing the views of the United States.

20-5532 GOLDEN, LARRY V. UNITED STATES

20-5539 RUMZIS, GINGER G. V. SAUL, ANDREW M.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until November 9, 2020, within which to pay the docketing fees required by Rule 38(a).

CERTIORARI GRANTED

19-1212 WOLF, SEC. OF HOMELAND, ET AL. V. INNOVATION LAW LAB, ET AL.

20-18 LANGE, ARTHUR G. V. CALIFORNIA

20-138 TRUMP, PRESIDENT OF U.S., ET AL. V. SIERRA CLUB, ET AL.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

19-1260 DEMMA, ANDREW V. UNITED STATES

19-1323 B.E. TECHNOLOGY, L.L.C. V. FACEBOOK, INC.

19-1357 PEREZ, ROBERT A. V. COLORADO

19-8832 VAN DER END, STEFAN V. UNITED STATES

20-22 BHAI, MALIK A., ET. AL. V. BARR, ATT'Y GEN.

20-39) AVIC INT'L HOLDING CORP., ET AL. V. SOARING WIND ENERGY, ET AL.
)
20-40) CATIC USA INC. V. SOARING WIND ENERGY, ET AL.

20-147 BROWN, TIMOTHY B. V. U.S. BANK NAT. ASSN., ET AL.

20-149 UZAMERE, CHERYL D. V. NEW YORK, ET AL.

20-151 BLESSETT, JOE V. GARCIA, BEVERLY A.

20-152 WULLSCHLEGER, ANASTASIA, ET AL. V. ROYAL CANIN U.S.A., INC., ET AL.

20-156 CONNORS, KEVIN E. V. TEXAS

20-161 SACRAMENTO, CA, ET AL. V. MANN, ROBERT, ET AL.

20-164 JOHNSON, ROOSEVELT V. FLORIDA

20-170 HAN, KAREN C. V. HANKOOK TIRE CO.

20-180 GEORGE, MATTHEW W. V. VIRGINIA

20-182 STANBACK, RITA, ET AL. V. HUMPHREY, GINNY, ET AL.

20-184 ELLERBEE, JAMEL V. ANNETT HOLDINGS, INC., ET AL.

20-192 SERAFINE, MARY L. V. CRUMP, KARIN, ET AL.

20-194 COX, FRANKLIN V. TX WORKFORCE COMMISSION, ET AL.

20-212 CANUTO, TERESITA A. V. PELOSI, NANCY, ET AL.

20-215 BERNHOLZ, RICHARD V. INTERNAL REVENUE SERVICE

20-224 PITCH, MARION E., ET AL. V. UNITED STATES

20-230 BAKER, DONALD L. V. IANCU, ANDREI, ET AL.

20-233 HMONG 2, ET AL. V. UNITED STATES, ET AL.

20-258 MEDINA, ALVIN E. V. FAA

20-274 BUENO, EVELIA V. U.S. CITIZENSHIP & IMMIGRATION

20-279 TORRES, ESAUN V. BARR, ATT'Y GEN.

20-295 HI-TECH PHARMACEUTICALS, ET AL. V. FDA, ET AL.

20-311 WALTON, DEBORAH V. FIRST MERCHANT'S BANK

20-368 HALL, ERIC C. V. UNITED STATES

20-376 DNF ASSOCIATES, LLC V. McADORY, JILLIAN

20-387 HOWARD, LEWANA V. DeFRATES, GABRIEL, ET AL.

20-5072 NEWBERRY, RODNEY R. V. FLORIDA

20-5087 MOREIRA, ITALO E. N. V. UNITED STATES

20-5263 SCHROEDER, PATRICK W. V. NEBRASKA

20-5368 OYIBO, USMAN V. HUNTINGTON HOSPITAL, ET AL.

20-5378 STYERS, JAMES L. V. SHINN, DIR., AZ DOC

20-5383 GRIGSBY, DENNIS M. V. NEVEN, WARDEN, ET AL.

20-5384 GRANT, JEROME N. V. UNITED STATES, ET AL.

20-5386 HAWKINS, LEON V. MORGAN, WARDEN

20-5387 AUGUSTIN, ABRAHAM A. V. TENNESSEE

20-5397 BANKS, WILBERT R. V. LUMPKIN, DIR., TX DCJ

20-5399 LATIMER, ANTHONY L. V. JONES, BEN, ET AL.

20-5413 ENGLISH, JOSIAH V. GENTRY, JUDGE, ETC., ET AL.

20-5414 LEWIS, AIMEE V. SEVENTH CIRCUIT COURT, ET AL.

20-5419 DYER, MICHAEL D. V. SMITH, WARDEN, ET AL.

20-5420 CLARK, HELGA G. V. PERU

20-5425 GAMBLE, RASHEEN J. V. NEW YORK

20-5426 MOSS, DAVID V. TEXAS

20-5438 ROBINSON, MICHAEL V. GEISINGER HOSPITAL, ET AL.

20-5443 RONDEAU, CHRISTOPHER V. INDIANA

20-5448 WILLIAMS, ANTONIO V. POLLARD, WARDEN

20-5449 DAWSON, CAROLYN R. V. PAKENHAM, KEVIN

20-5456 ROBERTSON, LORENZO V. PACE, OZELL, ET AL.

20-5460 CALVIN, KEITH L. V. INCH, SEC., FL DOC, ET AL.

20-5463 ROGERS, ROWMOTO V. SKIPPER, WARDEN

20-5491 M. C. V. INDIANA

20-5494 SNOW, ERNEST R. V. INDIANA

20-5503 MARTIN, KEVIN L. V. NICHOLSON, CHRISTOPHER

20-5504 MARTIN, KEVIN L. V. CAPRON, CATHLEEN, ET AL.

20-5506 LOPEZ, RODOLFO V. INDIANA

20-5514 NELSON, DARYL D. V. BROWN, ACTING WARDEN

20-5525 BAILEY, LARRY R. V. UNITED STATES, ET AL.

20-5528 ROMERO, MIGUEL V. CALIFORNIA

20-5536 McKINNEY, JOSEPH S. V. LOUISIANA

20-5544 JACKSON, CLARENCE B. V. SAUL, ANDREW M.

20-5546 CARRYL, RUDOLPH V. UNITED STATES

20-5585 NIKOLLA, DENIS V. UNITED STATES

20-5613 SMITH, KEITH B. V. NAGY, WARDEN

20-5630 THACKER, MARK A. V. INDIANA

20-5647 MOYNIHAN, ROBERT W. V. INCH, SEC., FL DOC, ET AL.

20-5676 VENEGAS, LEON V. REWERTS, WARDEN

20-5690 LOFF, DARRICK M. V. BRNOVICH, ATT'Y GEN. OF AZ

20-5707 REEVES, RUTH E. V. ESPER, SEC. OF DEFENSE, ET AL.

20-5714 KOSHMIDER, DONALD J. V. LESATZ, WARDEN

20-5719 CRUZ, EFRAIN C. V. INCH, SEC., FL DOC, ET AL.

20-5730 BUTLER, JIMMIE V. UNITED STATES

20-5738 WASHINGTON, WILLIE H. V. UNITED STATES

20-5739 ROTHENBERG, DAVID V. UNITED STATES

20-5740 MAHAN, EDWARD V. UNITED STATES

20-5741 SANCHEZ-HERNANDEZ, JUAN G. V. UNITED STATES

20-5751 FERNANDEZ-DE CAMPA, PEDRO V. UNITED STATES

20-5752 FAULKNER, CHRISTOPHER A. V. UNITED STATES

20-5753 REDD, KUNTA K. V. UNITED STATES

20-5757 WILLIAMS, JERRIEUS V. UNITED STATES

20-5759 WILLIAMSON, CHARLES C. V. UNITED STATES

20-5770 BRIDGEWATER, DAVID A. V. UNITED STATES

20-5783 LEE, CHIA V. UNITED STATES

20-5785 COOK, MICHAEL H. V. UNITED STATES

20-5791 MORENO, ANTHONY V. UNITED STATES

20-5793 ZENDEJAS, FRANCISCO V. UNITED STATES

20-5794 WILBERT, SCOTT T. V. UNITED STATES

20-5816 ACEVEDO-LEMUS, JOSE A. V. UNITED STATES

The petitions for writs of certiorari are denied.

20-153 BLESSETT, JOE V. OFFICE OF THE ATT'Y GEN. OF TX

The petition for a writ of certiorari before judgment is denied.

20-241 JORDAN, JACK V. DEPT. OF LABOR

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

20-5451 TYLER, CASEY R. V. NORTH CAROLINA

20-5480 BALL, DENNIS A. V. JOHN DOES 1-X, ET AL.

20-5497 SIMPSON, MARCUS V. OH COURT OF COMMON PLEAS, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari are dismissed. See Rule 39.8.

20-5565 WEIDRICK, MARY JO V. TRUMP, PRESIDENT OF U.S.

The petition for a writ of certiorari before judgment is denied.

20-5659 ROBLES, GABRIEL M. V. WILKIE, SEC. OF VA

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

20-5755 JONES, JOSEPH L. V. GOOGLE LLC, INC.

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

HABEAS CORPUS DENIED

20-5837 IN RE EDWARD D. OBERWISE

The petition for a writ of habeas corpus is denied.

MANDAMUS DENIED

20-5365 IN RE JACQUELYN B. N'JAI

20-5367 IN RE ABDUL MOHAMMED

The petitions for writs of mandamus are denied.

20-5406 IN RE ABDUL MOHAMMED

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

REHEARINGS DENIED

19-8232 JACKSON, WILLIAM L. V. MISSISSIPPI

19-8279 LaGASSE, JEFFREY V. INCH, SEC., FL DOC

19-8280 JIMENEZ, JESUS J. V. DAVIS, DIR., TX DCJ

19-8348 KEHANO, ROLAND I. V. HARRINGTON, WARDEN, ET AL.

19-8357 LOUT, JEFFERY J. V. MONTANA

The petitions for rehearing are denied.

SUPREME COURT OF THE UNITED STATES

CLYDE S. BOVAT *v.* VERMONT

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF VERMONT

No. 19–1301. Decided October 19, 2020

The petition for a writ of certiorari is denied.

Statement of JUSTICE GORSUCH, with whom JUSTICE SOTOMAYOR and JUSTICE KAGAN join, respecting the denial of certiorari.

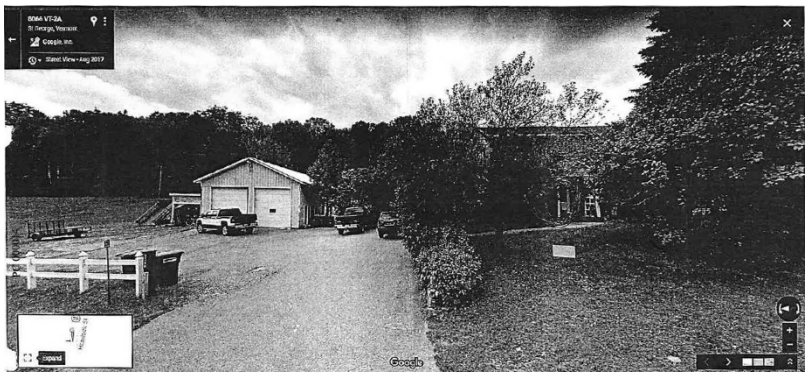
The "knock and talk" is an increasingly popular law enforcement tool, and it's easy to see why. All an officer has to do is approach a home's front door, knock, and win the homeowner's consent to a search. Because everything is done with permission, there's usually no need to bother with a warrant, or worry whether exigent circumstances might forgive one's absence. After all, the Fourth Amendment protects against *unreasonable* searches, and consensual searches are rarely that.

But with the rise of the knock and talk have come more and more cases testing the boundaries of the consent on which they depend. Sometimes, officers appear with overbearing force or otherwise seek to suggest that a homeowner has no choice but to cooperate. Other times, officers fail to head directly to the front door to speak with the homeowner, choosing to wander the property first to search for whatever they can find.

This Court addressed the second sort of problem in *Florida* v. *Jardines*, 569 U. S. 1 (2013). There, the Court recognized that a home's "curtilage," the area immediately surrounding it, is protected by the Fourth Amendment much like the home itself. *Id.,* at 6. So, to comply with the Constitution, law enforcement agents not only need a warrant, exigent circumstances, or consent to enter a

home, they usually need one of those things to reach the home's front door in the first place. After surveying the Fourth Amendment's original meaning and history, *Jardines* acknowledged that a doorbell or knocker on the front door often signals a homeowner's consent allowing visitors to "approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave." *Id.,* at 8. The Court recognized, too, that law enforcement agents, like everyone else, may take up this "implied license" to approach. But, the Court stressed, officers may not abuse the limited scope of this license by snooping around the premises on their way to the front door. Whether done by a private person or a law enforcement agent, that kind of conduct is an unlawful trespass—and, when conducted by the government, it amounts to an unreasonable search in violation of the Fourth Amendment. On this much, the Court unanimously agreed. See *id.,* at 19 (ALITO, J., dissenting) ("A visitor cannot traipse through the garden, meander into the backyard, or take other circuitous detours that veer from the pathway that a visitor would customarily use"); *id.,* at 20 ("The license is limited to the amount of time it would customarily take to approach the door, pause long enough to see if someone is home, and (if not expressly invited to stay longer) leave").

It's hard to see how the case before us could have been decided without reference to *Jardines*. Suspecting Clyde Bovat of unlawfully hunting a deer at night (Vermont calls it a "deer jacking"), game wardens decided to pay him a visit to—in their words—"investigate further." But the wardens admit that "pretty soon after arriving" they focused on a window in Mr. Bovat's detached garage. Heading there and peering inside, the wardens spotted what they thought could be deer hair on the tailgate of a parked truck.



App. to Pet. for Cert. 53a.

Nor, apparently, was this detour a brief one. According to Mr. Bovat's wife, the wardens lingered on the property for perhaps fifteen minutes and never even made it to the front door. Instead, after watching from inside, *she* finally decided to go out to speak with the wardens—and it was only *then* they finally sought consent for a search. Mrs. Bovat refused the request, but by that point, of course, the whole exercise of seeking consent was pointless—the wardens had all they needed, forget about any knock or talk. They left the property only to return promptly with a search warrant premised on what they had seen through the garage window.

For reasons that remain unclear, the Vermont Supreme Court analyzed the propriety of the wardens' conduct without mentioning *Jardines*. Instead, the court held that the officers' initial visit and search of the property was perfectly appropriate in light of the "plain view" doctrine—the commonsense principle that the Fourth Amendment doesn't normally require an officer to ignore what he sees lying before him. But that doctrine applies only when an officer finds himself in a place he is lawfully permitted to occupy. No one, after all, thinks an officer can unlawfully break into a home, witness illegal activity, and then claim the benefit of the plain view doctrine. So, in an

effort to suggest the wardens' lingering at the garage window was lawful, the Vermont Supreme Court proceeded to cite one of its pre-*Jardines* cases for the notion that driveways constitute "semiprivate areas" within the curtilage, and "'observations made from such'" areas "'are not covered by the Fourth Amendment.'" 2019 VT 81, ¶18, 224 A. 3d 103, 108 (quoting *State* v. *Pike*, 143 Vt. 283, 288, 465 A. 2d 1348, 1351 (1983)). The upshot? Under the court's logic, it seems, an officer who keeps ten toes in a home's driveway may stay and search just as he pleases.

None of this is easy to square with *Jardines*, and that case's teachings almost certainly required a different result. Maybe a court could have discredited Mrs. Bovat's testimony about how long the wardens wandered around the garage. Maybe a court could have attempted to offer some explanation why items viewable only through a garage window were within the "plain view" of visitors proceeding directly and without delay from the street to the front door. But it seems a good deal more likely that any court applying *Jardines* would have agreed with Chief Justice Reiber, who explained in dissent that the wardens exceeded the scope of their implied license to approach the front door by heading to the garage and spending so much time peering through its window. As Chief Justice Reiber noted, *Jardines* plainly held that the home's curtilage and observations made anywhere within its bounds *are* covered by the Fourth Amendment; no exceptions. And the Fourth Amendment hardly tolerates the sort of meandering search that took place here. The wardens violated the Constitution, and the warrant they received premised on the fruits of their unlawful search was thus tainted.

Despite the Vermont Supreme Court's error, I acknowledge that understandable reasons exist for my colleagues' decision to let this case go. For one, it is unclear whether *Jardines*'s message about the protections due a home's curtilage has so badly eluded other state or federal

courts. For another, there might be reason to hope that, while Vermont missed *Jardines* in one deer-jacking case, its oversight will prove a stray mistake. But however all that may be, the error here remains worth highlighting to ensure it does not recur. Under *Jardines*, there exist no "semiprivate areas" within the curtilage where governmental agents may roam from edge to edge. Nor does *Jardines* afford officers a fifteen-minute grace period to run around collecting as much evidence as possible before the clock runs out or the homeowner intervenes. The Constitution's historic protections for the sanctity of the home and its surroundings demand more respect from us all than was displayed here.

SUPREME COURT OF THE UNITED STATES

ROGERS COUNTY BOARD OF TAX ROLL CORRECTIONS, ET AL. *v.* VIDEO GAMING TECHNOLOGIES, INC.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF OKLAHOMA

No. 19–1298. Decided October 19, 2020

The petition for a writ of certiorari is denied.

JUSTICE THOMAS, dissenting from the denial of certiorari.

Earlier this year, the Court "disregard[ed] the 'well settled' approach required by our precedents" and transformed half of Oklahoma into tribal land. *McGirt* v. *Oklahoma*, 591 U. S. ___, ___–___ (2020) (ROBERTS, C. J., dissenting) (slip op., at 1–2). That decision "profoundly destabilized the governance of eastern Oklahoma" and "create[d] significant uncertainty" about basic government functions like "taxation." *Ibid.* The least we could do now is mitigate some of that uncertainty.

This case presents a square conflict on an important question: Does federal law silently pre-empt state laws assessing taxes on ownership of electronic gambling equipment when that equipment is located on tribal land but owned by non-Indians? Here, the Oklahoma Supreme Court said yes. But a few years earlier, the Second Circuit said no. *Mashantucket Pequot Tribe* v. *Ledyard*, 722 F. 3d 457 (2013). This disagreement alone merits review.

"[T]axes are the life-blood of government, and their prompt and certain availability an imperious need." *Bull* v. *United States*, 295 U. S. 247, 259 (1935). By enjoining a tax on ownership of property, the Oklahoma Supreme Court has disrupted funding for schools, health departments, and law enforcement. And although this case concerns only electronic gambling equipment, it injects uncertainty about

whether state and local governments can tax the ownership of many other kinds of property located on millions of acres of now-tribal land. The sooner localities in Oklahoma receive a clear answer, the sooner they can plan accordingly and avoid serious funding shortfalls.

This case also presents an opportunity to clear up tension among courts about how to apply pre-emption principles at the intersection of federal law, state law, and tribal land. This Court has created a "flexible" test for evaluating whether federal law implicitly pre-empts state taxation of non-Indians on tribal land. *Cotton Petroleum Corp.* v. *New Mexico*, 490 U. S. 163, 176 (1989). But our "flexible" test has provided little guidance other than that courts should balance federal, tribal, and state interests. *White Mountain Apache Tribe* v. *Bracker*, 448 U. S. 136, 142, 144–145 (1980). This vague test is no prescription for the "certain availability" of tax revenue. *Bull*, 295 U. S., at 259.

Because the Court declines to take up this case, geographical happenstance will continue to play an outsized role in a State's ability to raise revenues, and pre-emption law will remain amorphous. "The State of Oklahoma deserves more respect under our Constitution's federal system" than we give it today. *McGirt*, 591 U. S., at ___ (THOMAS, J., dissenting) (slip op., at 4). I respectfully dissent from the Court's decision to deny certiorari.