

(ORDER LIST: 590 U.S.)

MONDAY, MAY 18, 2020

**CERTIORARI -- SUMMARY DISPOSITION**

19-864 BEERS, BRADLEY V. BARR, ATT'Y GEN., ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Third Circuit with instructions to dismiss the case as moot. See *United States v. Munsingwear, Inc.*, 340 U. S. 36 (1950).

**ORDERS IN PENDING CASES**

19M136 IN RE EDWARD STARLING

The motion for leave to proceed as a veteran is denied.

19M137 ROSAS, IRMA V. UNIVERSITY OF TEXAS, ET AL.

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

19-8037 RUTTKAMP, SHLOMIT V. BANK OF NEW YORK MELLON

19-8061 WANG, WEIXING V. MARCOTTE, ROBERT

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until June 8, 2020, within which to pay the docketing fees required by Rule 38(a).

**CERTIORARI DENIED**

19-55 RICHARDS, JAMES W. V. BARRETT, SEC. OF AIR FORCE

19-605 ARIZONA V. MARTIN, PHILIP J.

19-682 KELSAY, MELANIE V. ERNST, MATT

19-815 PHOENIX, LISA M. V. REGIONS BANK

19-849 DYROFF, KRISTANALEA V. ULTIMATE SOFTWARE GROUP, INC.  
19-859 FORCE, STUART V. FACEBOOK, INC.  
19-912 ROBLES, ALBERT T. V. UNITED STATES  
19-1006 FACEBOOK, INC., ET AL. V. SUPERIOR COURT OF CA, ET AL.  
19-1049 VENEZUELA, ET AL. V. CRYSTALLEX INTERNATIONAL CORP.  
19-1079 M.W. WATERMARK, LLC, ET AL. V. EVOQUA WATER TECHNOLOGIES, LLC  
19-1081 ROSENBLATT, ARLENE V. SANTA MONICA, CA, ET AL.  
19-1088 FOX, GERSON I. V. MILLER, ELISSA  
19-1093 CLARKSTON, ALEASHIA, ET AL. V. WHITE, JOHN  
19-1095 BEGGS, JAMES, ET UX. V. STORY, BEVERLY, ET AL.  
19-1096 MULTIVENTAS Y SERVICIOS, ET AL. V. ORIENTAL BANK  
19-1109 YOAKUM, TIMOTHY C. V. SABRE GLBL INC.  
19-1111 DEEM, MICHAEL A. V. DiMELLA-DEEM, LORNA, ET AL.  
19-1112 JONES, STEPHANIE V. EDER, JEREMY, ET AL.  
19-1114 NAT. COLLEGIATE ATHLETIC ASSN. V. NJ THOROUGHbred HORSEMEN ASSN.  
19-1117 MALUKAS, HENRIKAS V. BARR, ATT'Y GEN.  
19-1119 SAUK PRAIRIE CONSERVATION V. DEPARTMENT OF INTERIOR, ET AL.  
19-1122 TANG, HONG V. UNIV. OF BALTIMORE, ET AL.  
19-1128 MENDES DA COSTA, JOSE V. OFFICER PEREIRA, ET AL.  
19-1129 FOTE, CHARLES T, V. IANCU, ANDREI  
19-1132 BLACKBIRD TECH LLC V. HEALTH IN MOTION LLC, ET AL.  
19-1139 HINES, JAMES L. V. REGIONS BANK  
19-1150 KIRCHHOFF, GARY V. UNITED STATES, ET AL.  
19-1161 HAWKINS, JUSTIN V. OHIO  
19-1168 MACHALA, MIREK V. KRAL, LIBUSE, ET AL.  
19-1172 TARGOWSKI, MARK V. RAWLINS, ZACHARY L.  
19-1188 SAMACA, LLC V. CELLAIRIS FRANCHISE, INC., ET AL  
19-1196 JOHNSON, WILLIAM V. PAULDING COUNTY, GA, ET AL.

19-1202      TAFTE, THOMAS, ET AL. V. FIRST NATIONAL BANK OF ALASKA  
19-1211      NORTH, JAMES C. V. DAVIS, DIR., TX DCJ  
19-1213      HAMMERS, BUCK L. V. UNITED STATES  
19-1228      KANEKA CORP. V. XIAMEN KINGDOMWAY GROUP, ET AL.  
19-5497      MCGILL, JOHN V. UNITED STATES  
19-6006      WILKERSON, NICHOLAS V. ALABAMA  
19-6588      PEDROZA-ROCHA, CARLOS J. V. UNITED STATES  
19-6701      LABAT, CARL V. VANNOY, WARDEN  
19-6705      WILKINS, KEENAN G. V. GALVIN, J., ET AL.  
19-6922      BATES, CHARLES E. V. UNITED STATES  
19-7217      THOMPSON, RICKEY V. UNITED STATES  
19-7425      HETTINGA, WYLMINA L. V. ARCADIA MANAGEMENT SERVICES  
19-7455      BUSH, RONSON K. V. SHARP, INTERIM WARDEN  
19-7476      KEMP, TIMOTHY W. V. PAYNE, DIR., AR DOC  
19-7553      HUMBERT, GERALD V. UNITED STATES  
19-7607      WESTRUM, JON P. V. NLRB  
19-7627      MARTINEZ, ERNESTO S. V. SHINN, DIR., AZ DOC  
19-7645      GONZALES, RAMIRO F. V. DAVIS, DIR., TX DCJ  
19-7805      HOLLOWMAN, SHAVIS V. CLARKE, DIR., VA DOC  
19-7810      EATON, DALE W. V. PACHECO, WARDEN  
19-7882      HARRIS, BRANDY V. V. MAY, BRITNEY, ET AL.  
19-7888      BANKS, JOSEPHINE V. WAFFLE HOUSE, INC.  
19-7899      NIGL, PAUL V. LITSCHER, JON, ET AL.  
19-7901      POWERS, THOMAS V. SMITH, TRAVIS, ET AL.  
19-7906      OSBORNE, ANGELLO A. V. GEORGIADIS, PETER  
19-7907      OLSEN, DAVID A. V. FRANCOIS, KAYLEE A.  
19-7912      MEHDIPOUR, ALI V. SWEENEY, KEITH, ET AL.  
19-7913      PARINEH, POOROUSHASB V. MARTEL, WARDEN

19-7920 JOHNSON, IVERYLEE A. V. INCH, SEC., FL DOC, ET AL.

19-7921 SCOTT, FLOYD D. V. SUPERIOR COURT OF CA

19-7923 SMITH, BARLOW V. KENNEDY, TERRY

19-7924 STACZ, SHANEL V. ESA MANAGEMENT, LLC, ET AL.

19-7925 O'ROURKE, RONALD V. LASHBROOK, WARDEN

19-7926 OUYANG, LIN V. ACHEM INDUSTRY AMERICA, INC.

19-7929 YOST-RUDGE, CARYN H. V. A TO Z PROPERTIES, INC., ET AL.

19-7932 AUCH, ENRIQUE V. MASSACHUSETTS

19-7936 ZAVAGLIA, JAMES V. BOSTON UNIV. SCH. OF MEDICINE

19-7937 YANEY, MICHELLE S., ET AL. V. MASON, REBECCA, ET AL.

19-7943 J. H. V. E. R. S.

19-7954 LEONHART, STEVEN M. V. SHOOP, WARDEN

19-7955 BERRYMAN, PHILIP V. HAAS, RANDALL, ET AL.

19-7959 TEDESCO, JOHN V. FERGUSON, SUPT., GRATERFORD

19-7961 THRONEBERRY, RANDALL D V. OKLAHOMA

19-7962 WOMACK, RODNEY J. V. ROBERTSON, WARDEN

19-7964 AIZUPITIS, VARIS R. V. DELAWARE

19-7966 LANGFORD, JUSTIN O. V. COBB, WILLIAM G.

19-7968 NDOROMO, AKUBE W. V. BARR, ATT'Y GEN., ET AL.

19-7969 McBRIDE, EMBERY J. V. BERRY, WARDEN

19-7973 CHISOLM, QUINCY V. MARYLAND

19-7975 MYER, GLENN V. ALL DULLES AREA MUSLIM SOCIETY

19-7980 PATTERSON, MAECHEL S. V. USDC ED NC

19-7982 PENLAND, ALEX V. OHIO

19-7983 NEWTON, ERIC S. V. OHIO

19-7989 BRYNER, ROGER V. CLEARFIELD CITY, UT, ET AL.

19-7990 ROMAN, GABRIEL L. V. KIM, SARAH H.

19-7992 DAVIS, GLENN S. V. BANK OF NEW YORK MELLON CORP.

19-7994 BUTLER, DAVID A. V. FLORIDA  
19-7995 JACKSON, ELIJAH V. MAGOON ESTATES LIMITED, ET AL.  
19-8001 VINAROV, VALERY V. CITIMORTGAGE, INC.  
19-8007 GABRIEL, GWENDOLYN V. MERRY OUTLAW  
19-8011 DELLINGER, JAMES A. V. TENNESSEE  
19-8012 DREVALEVA, TATYANA E. V. ALAMEDA HEALTH SYSTEM, ET AL.  
19-8013 ALEXANDER, KEITH V. PENNSYLVANIA  
19-8018 HUMPHREY, TIMOTHY V. INCH, SEC., FL DOC, ET AL.  
19-8021 JACKSON, HENRY L. V. UTAH, ET AL.  
19-8023 ORR, TOM E. V. TN BUREAU OF INVESTIGATION  
19-8024 HUNSBERGER, JULIO A. V. DURAN, RANDY B., ET AL.  
19-8025 MCKINNEY, KWASI V. ARKANSAS  
19-8028 GORE, TYLER V. FLORIDA  
19-8032 HARRIS, VAUGHN V. NASHVILLE, TN, ET AL.  
19-8042 TAYLOR, LEWIS V. FLORIDA  
19-8050 MERRITT, CUWAN V. UNITED STATES  
19-8051 HESSIANI, JACK B. V. UNITED STATES  
19-8057 BROWN, AARON M. V. INDIANA  
19-8060 DOE, JOHN V. UNITED STATES  
19-8081 FLORES, JUAN I. V. CALIFORNIA  
19-8087 JENKINS, SHARLA V. FIELDS, HELEN F.  
19-8091 OFFICER, VERNON W. V. WASHINGTON  
19-8099 SMITH, BRANDON P. V. UTAH  
19-8108 ALBRECHT, DANA V. ALBRECHT, KATHERINE  
19-8115 WHITE, BRENDA R. V. EDS CARE MANAGEMENT, ET AL.  
19-8122 WIDDIFIELD, ALLAN V. MAZZA, WARDEN  
19-8125 THOMAS, WENDELL R. V. CALIFORNIA  
19-8127 TYLER, CASEY R. V. HOOKS, WARDEN

19-8146 PURISIMA, ANTON V. SAUL, ANDREW M.  
19-8151 ALCOCER ROA, MICHAEL J. V. UNITED STATES  
19-8171 DAWSON, CAROLYN R. V. BANK OF NEW YORK MELLON, ET AL.  
19-8184 WALSH, WILLIAM F. V. UNITED STATES  
19-8199 BULLARD, DWIGHT V. UNITED STATES  
19-8204 FOX, ARNOLD E. V. UNITED STATES  
19-8212 SOTO-GARCIA, SANTIAGO V. UNITED STATES  
19-8214 ATKINS, HOWARD V. CROWELL, WARDEN  
19-8215 RIVERA-MUNOZ, VICTOR V. UNITED STATES  
19-8219 MEDRANO, JUAN G. V. FRAUENHEIM, WARDEN  
19-8220 MACLI, JORGE V. UNITED STATES  
19-8222 MASON, STEVEN V. UNITED STATES  
19-8228 MARSH, KIRK R. V. UNITED STATES  
19-8231 JUVENILE MALE V. UNITED STATES  
19-8235 EATON, JUSTIN K. V. UNITED STATES  
19-8237 ROMERO-SALGADO, FERNANDO V. UNITED STATES  
19-8240 VALENTINI, RICHARD V. UNITED STATES  
19-8249 JACKSON, RODNEY V. UNITED STATES  
19-8250 GAUSSIRAN, MICHAEL T. V. UNITED STATES  
19-8254 DOWELL, SAMUEL V. UNITED STATES  
19-8255 MEDINA-RODRIGUEZ, EMILIO V. UNITED STATES  
19-8256 BROWDY, JERRY V. UNITED STATES  
19-8261 ATH, SEAN V. UNITED STATES  
19-8263 BROWN, LARRY W. V. UNITED STATES  
19-8265 HARTLEY, JERRY W. V. UNITED STATES  
19-8267 CASCELLA, JON V. UNITED STATES  
19-8269 JAMES, STELLA R. V. UNITED STATES  
19-8273 EVANS, DEONDAY V. UNITED STATES

19-8274 SCOTT, TRACY A. V. UNITED STATES  
19-8275 SWINTON, ROBERT L. V. UNITED STATES  
19-8277 AUGUSTIN, ABRAHAM A. V. UNITED STATES  
19-8312 CANDELARIA, LAZARO V. UNITED STATES  
19-8315 VINCENT, TODD M. V. UNITED STATES  
19-8325 HUSSEIN, QAIS V. UNITED STATES

The petitions for writs of certiorari are denied.

18-1421 NASSAU COUNTY V. ORLANDO, MARK

The motion of respondent for leave to proceed *in forma pauperis* is granted. The petition for a writ of certiorari is denied.

19-835 VALERO ENERGY CORP., ET AL. V. EPA

The motion of National Association of Home Builders of the United States for leave to file a brief as *amicus curiae* is granted. The petition for a writ of certiorari is denied.

19-1021 JESSOP, MICAH, ET AL. V. FRESNO, CA, ET AL.

The motion of Institute for Justice for leave to file a brief as *amicus curiae* is granted. The motion of Cato Institute, et al. for leave to file a brief as *amici curiae* is granted. The motion of New Civil Liberties Alliance for leave to file a brief as *amicus curiae* is granted. The motion of National Association of Criminal Defense Lawyers for leave to file a brief as *amicus curiae* is granted. The motion of Constitutional Accountability Center for leave to file a brief as *amicus curiae* is granted. The motion of DKT Liberty Project, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

- 19-7866 POPAL, FARID V. BROWN, STEPHEN  
19-7905 ARUNACHALAM, LAKSHMI V. EXXON MOBIL CORPORATION  
19-7910 ARUNACHALAM, LAKSHMI V. INTUIT, INC.

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.

- 19-7915 DeATLEY, ALAN V. WILLIAMS, DIR., CO DOC, ET AL.

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

- 19-7935 BALL, DENNIS A. V. MARION, IL

- 19-7953 LOPEZ, ARTHUR V. LOPEZ, CHERYL

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.

- 19-8029 ARUNACHALAM, LAKSHMI V. LYFT, INC.

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. The Chief Justice took no part in the consideration or decision of this motion and this petition.

- 19-8064 WEEKS, RUBIN R. V. PAYNE, WARDEN, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin*



*v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992)  
(*per curiam*).

19-8211 BANKS, FREDERICK V. BRAUN, SCOOTER, ET AL.

19-8252 CHAMBERS, ROSCOE V. HARDY, WILLIAM, 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.

19-8291 YAZZIE, WILLIS J. V. UNITED STATES

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

19-8293 WALKER, TIMOTHY V. UNITED STATES

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

#### HABEAS CORPUS DENIED

18-9554 IN RE BILLIE J. ALLEN

19-1226 IN RE MASOUD BAMDAD

19-8282 IN RE ROBBIE G. WATSON, JR.

19-8285 IN RE DAVID L. WILLIAMS

The petitions for writs of habeas corpus are denied.

19-8345 IN RE STEVEN CIOTTA

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of habeas corpus is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the

petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

**MANDAMUS DENIED**

19-7938 IN RE ARETHA TOWNSEND

The petition for a writ of mandamus is denied.

**PROHIBITION DENIED**

19-7885 IN RE KENTON G. FINDLAY

The petition for a writ of prohibition is denied.

**REHEARINGS DENIED**

19-876 RAMIREZ, FERNANDO A. V. HOGUE, DAVE, ET AL.

19-1005 HOTZE HEALTH WELLNESS, ET AL. V. ENVIRONMENTAL RESEARCH CENTER

19-6426 RAMIREZ, JOHN H. V. DAVIS, DIR. TX DCJ

19-6657 SMITH, RIKISHA S. V. SCOTT, DR., ET AL.

19-6783 JARVIS, VIRGIL L. V. ALLISON, SHERIFF, ET AL.

19-6839 SMITH, PATRICK R. V. UNDERWOOD, ATT'Y GEN. OF NY

19-7017 WILLIAMS, LANA K. V. TACO BELL

19-7023 COTTON, MICHAEL P. V. ECKSTEIN, WARDEN

19-7085 OEUR, RATHA V. COUNTY OF LOS ANGELES, CA

19-7228 CARTER, JERRY V. UNITED STATES

19-7230 IN RE ARTHUR LOPEZ

19-7374 IN RE JOHN WALLACE

19-7413 CLANCY, BRENNEN V. FL DOC, ET AL.

19-7489 DURAN, PAUL E. V. DIAZ, SEC., CA DOC

19-7716 WALLACE, TIMMY V. UNITED STATES

19-7792 IN RE DAVID LOPEZ

19-7944 IN RE STEVEN BEEBE

The petitions for rehearing are denied.

THOMAS, J., dissenting

**SUPREME COURT OF THE UNITED STATES**

WEXFORD HEALTH, ET AL. *v.* KAREEM GARRETT

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

No. 19–867. Decided May 18, 2020

The petition for a writ of certiorari is denied.

JUSTICE THOMAS, dissenting from the denial of certiorari.

Under the Prison Litigation Reform Act of 1995 (PLRA), prisoners must exhaust administrative remedies before challenging prison conditions in federal court. 110 Stat. 321–71, 42 U. S. C. §1997e(a). This case presents the question whether a prisoner who fails to comply with that exhaustion requirement may cure the defect by filing an amended or supplemental complaint after his release. Because the Circuits are divided on this important question of federal law, I would grant the petition for certiorari.

While incarcerated, respondent brought this *pro se* action against prison medical personnel under 42 U. S. C. §1983, but he did not complete the prison’s grievance process before filing suit. After he was released, respondent filed an amended and supplemental complaint. The District Court dismissed respondent’s claims against petitioners for failure to exhaust administrative remedies as required by the PLRA.

The Third Circuit vacated the District Court’s judgment, concluding that the PLRA’s exhaustion requirement no longer applied to respondent’s claims in light of his postrelease filing. 938 F. 3d 69 (2019). The court rejected petitioners’ argument that the plain language of the statute, which speaks to when an “action [may] be brought,” requires courts to assess PLRA compliance at the time of the initial filing. §1997e(a). Noting that our decision in *Jones v. Bock*, 549 U. S. 199 (2007), characterized this language

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as “boilerplate,” *id.*, at 220, the court determined that the statute’s text did not clearly displace normal procedural rules. The court further concluded that, under Federal Rule of Civil Procedure 15, the amended and supplemental complaint related back to respondent’s initial filing and therefore superseded the original complaint. Because respondent was no longer a prisoner when he amended and supplemented his complaint, the court reasoned that he was no longer subject to the PLRA’s prefiling requirements.

The Third Circuit noted that its holding was consistent with the Ninth Circuit’s approach in *Jackson v. Fong*, 870 F. 3d 928 (2017), but conflicted with the Eleventh Circuit’s en banc decision in *Harris v. Garner*, 216 F. 3d 970 (2000). In *Harris*, the Eleventh Circuit interpreted the same statutory language in a related PLRA requirement and held that prisoners could not cure their initial filing defects by amending or supplementing their complaints after release. *Id.*, at 981–982; see also *Smith v. Terry*, 491 Fed. Appx. 81, 83 (CA11 2012) (applying *Harris* to the PLRA’s exhaustion requirement). The Third Circuit’s position also conflicts with that of the Fifth Circuit, which has recently explained that a complaint must be dismissed and refiled postrelease in order for a prisoner to avoid the PLRA’s exhaustion requirement. *Bargher v. White*, 928 F. 3d 439, 447–448 (2019). Thus, four Courts of Appeals are evenly divided on the question presented.\*

Respondent suggests that the Fifth and Eleventh Circuits may revisit their view in light of our decision in *Jones*. As an initial matter, both Circuits have affirmed their positions in decisions that postdate *Jones*. See *Bargher*, 928 F. 3d 439; *Smith*, 491 Fed Appx. 81. But more importantly, respondent reads our “boilerplate” dicta for far more than it is worth. In *Jones*, we rejected court-made pleading rules

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\* A panel of the Sixth Circuit has also agreed with the Eleventh Circuit in dicta. See *Cox v. Mayer*, 332 F. 3d 422, 428 (2003).

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for *pro se* litigants, explaining that “the PLRA’s screening requirement does not—explicitly or implicitly—justify deviating from the usual procedural practice *beyond the departures specified by the PLRA itself*.” 549 U. S., at 214 (emphasis added). Thus, that decision actually confirms that the PLRA’s prefiling requirements displace the Federal Rules of Civil Procedure, including Rule 15. We characterized the phrase “no action shall be brought” as “boilerplate” solely for the purpose of explaining that the PLRA speaks to the dismissal of defective claims, not necessarily entire complaints. *Id.*, at 220. We have never addressed the meaning of that language as applied to the context at issue here.

Finally, this question warrants our review because its resolution will have significant ramifications for not only prisoners and prison officials but also federal courts. In recent years, nearly 10,000 lawsuits have been filed annually by prisoners challenging prison conditions. See Administrative Office of the United States Courts, Federal Judicial Caseload Statistics, U. S. District Courts—Civil Cases Commenced, by Basis of Jurisdiction and Nature of Suit (2019) (Table C–2). And nearly twice as many lawsuits are filed annually raising other civil rights claims, *ibid.*, which are subject to similarly worded prefiling requirements under the PLRA, see, e.g., §1997e(e). Recognizing the PLRA’s important role in curtailing the proliferation of abusive prisoner litigation, we have repeatedly rejected lower courts’ attempts to create end-runs around the statute’s exhaustion requirement. See, e.g., *Ross v. Blake*, 578 U. S. \_\_\_, \_\_\_–\_\_\_ (2016) (slip op., at 5–8); *Woodford v. Ngo*, 548 U. S. 81, 91, n. 2 (2006); *Porter v. Nussle*, 534 U. S. 516, 520 (2002); *Booth v. Churner*, 532 U. S. 731, 741, n. 6 (2001). The same may be warranted here.

Because this petition presents an important question that has divided the Circuits, it deserves our review. See this Court’s Rule 10(a). I see no reason to continue allowing

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certain prisoners in the Third and Ninth Circuits to proceed unencumbered by the PLRA's exhaustion requirement while those in the Fifth and Eleventh Circuits are required to comply. I therefore respectfully dissent from the denial of certiorari.