Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. 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.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES, PETITIONER *v.* CITY OF LAS VEGAS

CERTIORARI TO THE MUNICIPAL GOVERNMENT OF LAS VEGAS

No. 4–2. Decided August 23, 2017.

The United States petitioned for a writ of certiorari to review the Federal Traffic Enforcement Act passed by the Las Vegas City Council—but vetoed by their Mayor. It prohibits federal law enforcement from arresting individuals for speeding violations; the Government contends this is outside of the Municipality's power to do.

Held: The Act in question was vetoed, and thus not in effect. The Court can-not and will not issue a ruling where there is no injury to be redressed. To do so would violate the requirement that adjudication be limited to cases and controversies. *Muskrat* v. *United States*, 219 U. S. 346, 356. Pp. 2–4.

SCALIA, J., delivered the opinion for a unanimous Court.

SUPREME COURT OF THE UNITED STATES

No. 4–2

UNITED STATES, PETITIONER *v.* CITY OF LAS VEGAS, ET AL.

ON WRIT OF CERTIORARI TO THE MUNICIPAL GOVERNMENT OF LAS VEGAS

[August 23, 2017]

JUSTICE SCALIA delivered the opinion of the Court.

In comes the big, bad Federal Government and her agents to force upon the private citizens of Las Vegas their evil agenda: enforcing the law. From this apprehension materialized the Federal Traffic Enforcement Act, passed by the Las Vegas City Council (hereafter "Council")—but not signed into effect by the City's Mayor. Its intention? "To reduce dangerous reckless driving to a possible minimum, while not giving federal agencies total municipal law enforcement powers." The United States formally entered proceedings against this Act, citing that it prohibits federal officers from arresting for speeding violations, § II(b). The Court granted certiorari, 4 U. S. ___ (2017), despite the bill still being that: a bill. On August 20, after reviewing options with counsel, the Mayor vetoed the Act.

This Court has reviewed the constitutionality of laws passed by the City's municipal government or ones relating to it by Congress on many an occasion. See *United States* v. *City of Las Vegas*, 2 U. S. 4 (2016) (the Federal Government had no lien over the Tow Truck Service); *United States* v. *City of Las*

Vegas, 2 U. S. 24 (2017) (municipal government has no inherent right to pass legislation of any kind); *Ryan_Revan* v. *United States*, 2 U. S. 34 (2017) (the Fauxtillion Home Office Act of 2017 presented an unconstitutional delegation of power to the City government); *Idiotic_Leader* v. *City of Las Vegas*, 3 U. S. ___ (2017) (the Business Limits Act is legislative in effect and thus unconstitutional). Everyone—even if reluctantly—agrees that municipal governments hold no inherent right to pass laws (and thus in effect govern). Our opinions have cemented that into reality. But what about passing traffic regulations and then limiting who may enforce them—is the latter permissible? That is the question before us, but it is one we will not entertain.

The Court erred by granting certiorari in the first place; the Federal Traffic Enforcement Act never made its way in envelope to the Mayor's desk; it never became *law* (and had it, readers would be reading a much different opinion today). The exercise of judicial power is limited to "cases" and "controversies." Beyond, it cannot extend. *Muskrat* v. *United States*, 219 U. S. 346, 356 (1911). Bound by this requirement, we have "an obligation to assure ourselves" of litigants' standing under Article III before entering judgement. *Friends of Earth, Inc.* v. *Laidlaw Environmental Services (TOC), Inc.*, 528 U. S. 167, 180 (2000). In doing so, we remember that the concept of judicial review is not inherent, but rather a byproduct of proper adjudication of these cases and controversies. See *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803). To make this determination of standing and controversy, we must—logically—assume the Federal Judiciary respects " 'the proper—and properly limited—role of the courts in a democratic society,' " *Allen* v. *Wright*, 468 U. S. 737, 750 (1984) (quoting *Warth* v. *Seldin*, 422 U. S. 490, 498 (1975)). If a dispute is not a proper case or controversy, "the courts have no business deciding it, or expounding the law in the course of doing so." *DaimlerChrysler Corp.* v. *Cuno*, 547 U. S. 332, 341 (2006). To

maintain the " 'tripartite allocation of power' " in the Constitution, the Court has recognized this requirement as crucial. *Valley Forge Christian College* v. *Americans United for Separation of Church and State, Inc.*, 454 U. S. 464, 474 (1982) (quoting *Flast* v. *Cohen*, 392 U. S. 83, 95 (1968)). In sum, " '[n]o principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases and controversies.' " *Raines* v. *Byrd*, 521 U. S. 811, 818 (1997) (quoting *Simon* v. *Eastern Ky. Welfare Rights Organization*, 426 U. S. 26, 37 (1976)).[1] That core component, that a litigant has standing to invoke the authority of a federal court, will remain unchanged. *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555, 560 (1992).

In order to have standing, the plaintiff must "allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen*, *supra*, at 751. True, we have been asked to resolve a fairly substantial constitutional question: Can municipal governments regulate where federal officers are permitted to operate under the law? But before doing so, "we must find that the question is presented in a 'case' or 'controversy' that is, in James Madison's words, 'of a Judiciary Nature.' " *DaimlerChrysler*, *supra*, at 342 (quoting 2 Records of the Federal Convention of 1787, p. 430 (M. Farrand ed. 1966)). As the party asserting federal jurisdiction, the United States must establish standing. It has not.

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[1] While this case is one entertained under Anytime Review, and thus not *officially* bound by the cases and controversies clause, the longstanding tradition of this Court has been to—absent *extraordinary* circumstances—incorporate that requirement into Anytime Review jurisprudence. See, *e. g.*, *PsychoDynamic* v. *Technozo*, 2 U. S. 77 (2017) (HOLMES, C. J., statement respecting denial of certiorari); *Ex parte HHPrinceGeorge*, 2 U. S. 30, 32 (2017) (SCALIA, J., concurring in denial of certiorari).

Standing requires an injury that is "concrete, particularized and actual or imminent; fairly traceable to the challenged action and redressable by a favorable ruling." *Monsanto Co.* v. *Geertson Seed Farms*, 561 U. S. 139, 149 (2010); see *Horne* v. *Flores*, 557 U. S. 433, 445 (2009). Petitioner fails on the first: We accordingly cannot further proceed. The Act which the United States contends is unconstitutional was never in effect; this makes the alleged injury not "actual or imminent," but instead "conjectural or hypothetical." *Defenders of Wildlife*, *supra*, at 560 (internal quotation marks omitted). And given the veto of the Act, we have no assurance that the "injury is 'imminent'—that it is 'certainly impending.' " *DaimlerChrysler*, 547 U. S., at 345 (quoting *Whitmore* v. *Arkansas*, 495 U. S., 149, 158 (1990) (internal quotation marks omitted)); see also *Defenders of Wildlife*, 504 U. S., at 564–565, n. 2. With it obvious that no injury actually exists, to make a ruling would be to effectively issue an advisory opinion—something we are unable to do. See, *e. g.*, 4 The Correspondence and Public Papers of John Jay 258 (H. Johnston ed. 1893). Given the aforementioned reasons, we refuse to make a judgement on the merits. Were the question before us focused on *effective* regulations, the Government would have standing—and we a chance to adjudicate. But it is not, and we have never been in a position to resolve baseless disputes. We refuse to start today simply because the petitioner failed to dot his i's and cross his t's.

It is so ordered.