

## Syllabus

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**SUPREME COURT OF THE UNITED STATES**

## Syllabus

GEORGE *v.* TROYANPETITION FOR CERTIORARI TO THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF COLUMBIA

No. 05–49. Argued June \_\_, 2018—Decided June 8, 2018

After a public Twitter altercation in which HHPrinceGeorge referred to VadymTroyan as a “fat pig” and “liar,” Troyan filed a lawsuit alleging defamation, *inter alia*. Soon after, the District Court issued judgment in his favor. George appealed on various grounds.

*Held:* The petition for a writ of certiorari is granted, the judgment is vacated, and the case is remanded for a new trial.

(a) The Court Proceedings Act (CPA) requires documentation of a trial (*i.e.* a recording or transcript) be made “publicly accessible on the case file.” If that is not present, the appropriate remedy is to vacate the judgement and send the case back for a new trial. P. 1.

(b) This Court must “intelligent[ly] resol[ve]” the cases before it and the CPA lawfully uses mandatory language (“shall”) when requiring appeals courts to void noncompliant lower court rulings. Therefore, this Court may rule on CPA grounds whenever a CPA violation “becomes apparent from the usual review of an appeal.” Pp. 1–2.

3:18–6149, vacated and remanded.

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

## Opinion of the Court

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**SUPREME COURT OF THE UNITED STATES**

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No. 05–49

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HHPRINCEGEORGE, PETITIONER *v.* VADYMTROYANON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[June 8, 2018]

JUSTICE BORK delivered the opinion of the Court.

On May 12, 2018, petitioner accused respondent of “lying” and referred to him as a “fat pig” in a public Twitter altercation. Respondent retaliated by filing a defamation lawsuit in Federal District Court; after a short trial, the lower court awarded him judgment. Petitioner appealed. In his petition, petitioner cited statements made during the trial by the judge and invited us to look to the “recording of the trial” as proof of them. ¶8. But no such recording is “publicly accessible on the case file.” Court Proceedings Act, Pub. L. 57–3, Dec. 9, 2017 (“CPA”), §3(a). In consequence, we grant the petition for certiorari, vacate the judgment below, and remand for further proceedings consistent with this opinion.

## I

The CPA establishes a liberal policy in favor of transparency in the lower courts. A few requirements are incident. First, a trial court must “documen[t]” trials either with a “recording” or a “transcript.” *Id.*, §3(a–b). And second, it must make that documentation “publicly accessible on the case file.” *Id.*, §3(a). The law then directs that appeals courts are to set aside noncompliant lower court rulings.

## Opinion of the Court

*Id.*, §4(a).

Typically, courts do not base their decisions on arguments not raised by a party or which cannot be derived from ones they do but that prudential consideration does not operate as a bar to the “intelligent resolution” of a case. *Ohio v. Robinette*, 519 U.S. 33, 38 (1996); *e.g.*, *George v. United States*, 5 U.S. \_\_\_, \_\_\_ (2018) (BORK, J., concurring in judgment) (“No amount of poor argumentation from either side can ever justify a wrong entry by this Court.”). Moreover, as some Justices have noted earlier, “[t]he language of the CPA . . . is mandatory.” *Nuini v. United States*, 5 U.S. \_\_\_, \_\_\_ (2018) (BORK, J., concurring in part and dissenting in part) (slip op., at 2) (citation omitted).

Mandatory language, lawfully used, must be obeyed. See *Board of Pardons v. Allen*, 482 U.S. 369, 374 (1987); *Greenholtz v. Inmates of the Nebraska Penal and Correctional Complex*, 442 U.S. 1, 11–12 (1987); *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). Therefore, if a CPA violation becomes apparent from the usual review of an appeal, even if not raised by any party, it must be remedied according to the “remedy chosen by Congress [meaning] we must void the lower court decision.” *Nuini*, *supra*.

## II

In this case, the CPA violation is elucidated by reference. That is to say the petitioner’s reference to something required by the CPA (documentation either as a video or transcript) directs our attention to the violation. By natural consequence of our search for the record evidence cited by the petitioner, we must realize that it is not included in the public “case file.” CPA §3(a).

If it is not in the case file, it does not satisfy the CPA. So even if the documentation *exists*, we are not in a position now to decide if it meets CPA standards. We leave that question for another day.

Opinion of the Court

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The petition for a writ of certiorari is granted, the judgment is vacated, and the case is remanded for further proceedings consistent with this opinion.

*It is so ordered.*