

Per Curiam

**SUPREME COURT OF THE UNITED STATES****CODE\_RAGER v. UNITED STATES**ON WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF COLUMBIA

No. 05–25. Decided April 8, 2018.

PER CURIAM.

Petitioner Code\_Rager was convicted almost two years ago of perpetrating an admin attack against the United States Court Process Trello board. For his crimes\* he was sentenced to 200 years of federal imprisonment and arrest on sight. In other words, he was issued the sentence of “permanent exclusion,” *CodyGamer v. United States*, 2 U. S. 18, 23. See also *RoExplo v. United States*, 5 U. S. \_\_\_, \_\_\_ (2018) (slip op., at 28). Following our holding in *RoExplo*, Code\_Rager appealed his sentence, alleging violation of the Eighth Amendment. We granted certiorari. 5 U. S. \_\_\_\_ (2018).

Not long after we granted certiorari, however, the President issued Code\_Rager a “full and unconditional pardon.” See Appendix, *infra*. Consistent with the process this Court articulated in *United States v. Wilson*, 32 U. S. 150 (1833) for the use of an issued pardon, Code\_Rager moved us to vacate his sentence. For the reasons stated below, we grant that motion. Both Code\_Rager and the United States, however, also requested that—despite the fact that the underlying sentence no longer exists—we decide the merits of this case anyways. That is something we are unable to do and we therefore dismiss the writ of certiorari as improvidently granted for the reasons provided below.

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\* He was charged with 96 counts of violating 18 U. S. C. § 1361, which punishes anyone who “willfully injures or commits any depredation against any property of the United States” and with committing treason under 18 U. S. C. § 2381.

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*Vacating the Sentence*

The motion to vacate the sentence imposed by the District Court is straightforward enough. If we are satisfied that the President indeed granted the asserted pardon and that Code\_Rager indeed wishes to avail himself of its benefit, we must grant the motion. *Id.*, at 163.

Firstly, we are satisfied that the President granted the asserted pardon for two distinct reasons. For starters, the pardon was first brought to our attention by the Attorney General, an officer of the President. Furthermore, the President himself confirmed the pardon's legitimacy upon direct inquiry by the Court. Second, we are equally convinced that Code\_Rager wishes to avail himself of the pardon's benefit. The fact that he moved this Court to vacate his sentence is enough proof of that. If it were not, his continued insistence on it suffices. We thus grant the motion to vacate his sentence.

*Dismissing the Case*

Both parties have asked this Court to decide this case on the merits despite us already having vacated the sentence on account of the Presidential pardon. Both the United States and Code\_Rager's counsel impress upon us the magnitude of the constitutional question presented and insist that for that reason, the case should proceed. But the judicial power, exercised by the courts under Article III, is a power "to decide not abstract questions but real, concrete 'Cases' and 'Controversies.'" *United States v. Windsor*, 570 U. S. \_\_\_, \_\_\_–\_\_\_ (2013) (Scalia, J., dissenting) (slip op., at 1–2). Our ordinary Article III powers (Anytime Review excluded) are confined to "determin[ing] the outcome of a lawsuit." *Id.*, at \_\_\_ (slip op., at 3). In so doing, we address constitutional questions which are necessary to the disposition of a case.

We frequently refrain from addressing questions which

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are not “outcome determinative.” *British v. Ozzymen*, 3 U. S. 60, 66 (2017) (citing *Sigma v. United States Marshals Service*, 3 U. S. 2, 15 (2017) (HOLMES, C. J., dissenting)). That practice very much has to do with the limits imposed by Article III on the exercise of our powers.

We agree with the parties that the question presented is of great consequence. This case, however, is not its answer.

\* \* \*

The sentence imposed on Code\_Rager is vacated and the case is dismissed.

*It is so ordered.*

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## APPENDIX

## Executive Grant of Clemency

Timothy F. Geithner

President of the United States of America

To All to Whom These Presents Shall Come, Greeting:

Be It Known, That This Day, I, Timothy F. Geithner, President of the United States, Pursuant to My Powers under Article II, Section 2, Clause 1, of the Constitution, Have Granted Unto

Code\_Rager

## A Full and Unconditional Pardon

For His Conviction of Section 1361 and 2383, Title 18, United States Code in the United States District Court for the District of Nevada, of which he was convicted on August 24, 2016, and for which sentencing is currently set for August 24, 2019.

In Testimony Whereof, I have hereunto signed my name and caused the seal of the Department of Justice to be affixed.



Done at the City of Washington this [blank] day of  
Month, in the year of our Lord two thousand and  
eighteen, and of the Independence of the United  
States of America the two hundred and sixty-first.

  
Timothy F. Geithner  
President