

Per Curiam

## SUPREME COURT OF THE UNITED STATES

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No. 05–42

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SHAWN\_SCHMIDT, PETITIONER *v.* DRIPFIZZ

ON WRIT OF CERTIORARI TO THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEVADA

[October 28, 2018]

PER CURIAM.

We granted certiorari in this case to consider what prior notice a District Court must give a party of its intention to enter summary judgment against them *sua sponte*. The Court has previously held that “district courts . . . possess the power to enter summary judgment *sua sponte* . . . so long as the losing party was on notice to come forward with all of [their] evidence.” *Celotex Corp. v. Catrett*, 477 U. S. 317, 326 (1986). It has been suggested by some Justices, with respect to this proceeding, that “[t]he case record makes . . . clear . . . [that] the District Court’s decision to award summary judgment . . . came as a total surprise to our petitioner.” *Schmidt v. Dripfizz*, 5 U. S. 128, 129 (2018) (HOLMES, C. J., joined by MARSHALL, J., dissenting from the denial of certiorari).

The Court, however, need not consider whether adequate notice was provided in this case or whether, if not, such error is “reversible error,” *ibid.*, since respondent has here conceded error and sought reversal. Accordingly, the judgment is reversed and the case remanded for further consideration in light of the confession of error.

*It is so ordered.*