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

TASK *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 09-51. Argued July 24, 2020—Decided April 18, 2021

Petitioner was convicted of one count of murder under 18 U. S. C. §1111, and sentenced to time in federal prison concurrent with arrest-on-sight status. Petitioner then filed this petition arguing that the service process conducted by the District Court and the United States was erroneous because they both confused the I in his username with an L, and that petitioner's counsel was ineffective under the Sixth Amendment of the Constitution.

Held: Petitioner was improperly summoned and that the District Court failed to uphold the fundamental and basic rules required of the Federal Rules of Criminal Procedure, but did not suffer from ineffective counsel, as alleged. Pp. 1–6.

(a) For someone to be properly summoned they must be informed of the accusations levied against them by the government and their agents. *Bartell* v. *United States*, 227 U. S. 427. Being fraudulently submitted and convicted in improper proceedings requires an immediate reversal of conviction. See *Cabot* v. *United States*, 10 U. S. 98. Because the District Court and the United States both failed to ensure that they were summoning the correct petitioner, the conviction cannot be sustained. P. 3.

(b) For an "ineffective counsel" defense as defined in *Strickland* v. *Washington,* 466 U. S. 668, to go forward, the quality of counsel available to those in the ROBLOX United States should be a considered factor and as reasonable as common practice and quality provides, at the time of the trial. The underlying principle behind ineffective assistance claims is not to determine, in hindsight, whether a claimant would have received a more favorable judgment, but for some strategic misstep by

Syllabus

counsel, but rather to ensure that a fundamentally fair trial has occurred. *Strickland,* 466 U. S. at 689. Petitioner's argument essentially asks that this Court lower the already-lenient bar set in *Strickland,* something that cannot be done. Pp. 4-6.

4:20-2023, reversed.

ALITO, J., delivered the opinion of the Court, in which SOUTER, C. J., and STEWART, BUTLER, and FRANKFURTER, JJ., joined. POWELL, J., filed a dissenting opinion.

SUPREME COURT OF THE UNITED STATES

No. 09–51

TASKFORCEBIUE, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[April 18, 2021]

JUSTICE ALITO delivered the opinion of the Court.

We are presented with an argument against the conviction and methods exercised by the District Court in an attempt to maintain/gather the conviction. The petitioner presents multiple arguments against the conviction which succeed in convincing the Court of the multiple procedural errors by the District Court and their handling of the case, which in part seems to be inconsistent with the Federal Rules of Criminal Procedure and in part with existing common law.

Upon recognition of error by the District Court, Judge Jackcari should have ordered a trial *de novo* on a *sua sponte* order or declared a mistrial altogether, an approach that would have been premised on the "public justice" policy engaged in *United States* v. *Perez*, 9 Wheat. 579 (1824). "A trial judge properly exercises his discretion to declare a mistrial if . . . a verdict of conviction could be reached but would have to be reversed on appeal due an obvious procedural error [in the trial]." See *Illinois* v. *Somerville*, 410 U. S. 458, 464 (1973).

We must also review whether the procedural error occurred as a result of a defective procedure [or rule] that

would lend itself to "prosecutorial manipulation" of which there seems to be no originating or malicious evidence. *Illinois*, *supra*; but rather has occurred as a result of poor management and failure to cognize a clear fault on the part of the District Court. It is the duty of the lower court to, upon recognition of error; correct such error in a manner not inconsistent with the Constitution of the United States and existing common law in an attempt to preserve the rights of all. "[Courts] are equally bound to guard and to protect rights secured by the Constitution." *Ex Parte Royall*, 117 U. S. 241, 251 (1886); *Rose* v. *Lundy*, 455 U. S. 509 (1982); *Picard* v. *Connor*, 404 U. S. 270, 276 (1971).

We find it to be unreasonable to suggest that the petitioner was properly summoned even though all usages and methods were not really all exercised in a reasonable fashion to expect the defendant to attend the Court or respond to the allegations against someone, that was not him. It has been long held that one must be properly summoned to officiate and certify the proceedings further in a trial; whether they be a witness, defendant et al. People are expected and "bound to perform when properly summoned." See, *e.g., Blair* v. *United States*, 250 U. S. 273, 281 (1919); *Blackmer* v. *United States*, 284 U. S. 241, 438 (1932). "Properly" entails the act of working in an "accurate or correct way".[1] We use the dictionary and its presented meanings when we cannot reasonably assume or confer such from other existing factors, such as legislation, intent etc. See *Smith* v. *United States*, 508 U. S. 223 (1993); *Booth* v. *Churner*, 523 U. S. 731 (2001). It is clear, maybe even more so than a crystal ball, that one cannot be expected to properly respond when they in fact are not subjected to the summons filled with correct information. "This is not an insignificant thing," as Dr. Jordan Peterson would say.

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[1] Definition of Properly, Merriam-Webster's Dictionary (March 16, 2021; https://www.merriam-webster.com/dictionary/properly).

Then there also arises an issue of whether and what standard is used when exercising all exhaustible means of contact in the attempt to make leeway with a summons or warrant. A Court must exhaust all necessary and reasonable means as available and applicable to this platform and its mediums of contact. However, this simply is not a negotiable issue: Courts should ensure they have the proper username and use due diligence, it is not for this Court to ordain the standards and usage of letters in summons and how they can be reasonable and how they can be not and how they can be this that and every other which way. The bottom line is the District Court failed to summon the defendant because they did not read their username. That is not the defendant's fault and somehow it is presented to be such – a judge should exhaust all means and use intelligence, even if it is the bare minimum, when adjudicating on matters. If they do not, the fault lies with them and the defendant is entitled to appropriate and equitable relief, *Snyder* v. *Louisiana*, 552 U. S. 472 (2008), including the striking down of a conviction. See *Cabot* v. *United States*, 10 U. S. 98 (2020).

We now move onto the evaluation of whether or not a criminal proceeding without informing the defendant of the charges levied against them by the government. This is a simple answer, the government and Courts must exercise all ways and means of notifying the defendant of the charges filed against him otherwise they infringe and denigrate his sixth amendment rights and guarantees that follow forth. The defendant has the right to be "advised of the nature and cause of accusation against him . . ." *Bartell* v. *United States*, 227 U. S. 427 (1913). In an attempt to reassure that the defendant can "with reasonable certainty" make his defense. *Bartell*, *supra.* Now this links to trial by absentia, another contested claim by the petitioner. So to answer this question we must refer to the requirements for absentia trials and how they are enforceable and under

what circumstances.

While there has been an extreme amount of leeway in the usage of absentia trials within our United States District Court, we have ruled before that Fed. Rules Crim. Proc. 43 does not authorize a trial by absentia if the defendant is not present at the beginning of the trial. See *Crosby* v. *United States*, 506 U. S. 255, 259 (1993). "The rule declared explicitly: 'The defendant shall be present . . . at every stage of the trial . . . except as otherwise provided by this rule.'" *Id.* (emphasis added). This could not be clearer, however what is contested is that how could the defendant properly be present when not officially demanded a presence? The answer: he cannot.

The recent revision of Rule 43 is designed to reflect *Illinois* v. *Allen*, 397 U. S. 337 (1970) (Brennan, J., concurring). The trial judge should make reasonable efforts to enable the defendant "[to] communicate with his attorney and, if possible, to keep apprised of the progress of the trial." 397 U. S. at 351.

The defendant's right to be present during the trial on a [serious] offense has been said to be so fundamental that it may not be waived. *Diaz* v. *United States*, 223 U. S. 442, 455, (1912) (dictum); *Near* v. *Cunningham*, 313 F. 2d 929, 931 (CA4 1963); C. Wright, Federal Practice and Procedure: Criminal § 723 at 199 (1969, Supp. 1971).

Subdivision (b)(1) makes clear that voluntary absence may constitute a waiver even if the defendant has not been informed by the court of his obligation to remain during the trial. Of course, proof of voluntary absence will require a showing that the defendant knew of the fact that the trial or other proceeding was going on. C. Wright, Federal Practice and Procedure: Criminal § 723 n. 35 (1969). But it is unnecessary to show that he was specifically warned of his obligation to be present; a warning seldom is thought necessary in current practice. See *Taylor* v. *United States*, 414 U. S. 17 (1973).

The notification of an obligation to remain at trial was not given to the defendant so this flat out denies him of his constitutional sixth amendment rights to know of the nature of the charges against him.

For an ineffective assistance of counsel argument, the petitioner must prove that "counsel's performance was deficient." *Strickland* v. *Washington*, 466 U. S. 668, 687 (1984). The Constitution requires that a criminal judgment be overturned because of the actual ineffective assistance of counsel. See generally *id.*

Massaro v. *United States*, 538 U. S. 500 (2003) held that a §2255 motion was "preferable" to the direct appeal against claims of ineffective assistance of counsel. Such preference was clearly not exercised here and petitioner was more than likely not aware of this.

However, petitioner essentially asks us to lower the bar set in *Strickland* in a dangerous manner, as to rule any argument which did not render a favorable verdict one that violates their constitutional rights. However, we must effectively examine the requirements and standards set out in *Strickland* and following common law to see if petitioner really was a victim of ineffective assistance of counsel.

The underlying principle behind ineffective assistance claims is not to determine, in hindsight, whether a claimant would have received a more favorable judgment, but for some strategic misstep by counsel, but rather to ensure that a fundamentally fair trial has occurred. See *Strickland*, *supra,* at 689 ("The purpose . . . is not to improve the quality of legal representation, . . . [but] simply to ensure that criminal defendants receive a fair trial"). Counsel is not "incompetent" to the degree of constitutional right violations if they cannot contact an individual that is, by definition, at their own accord, *persona non grata.*

The highly deferential nature of this standard means that "an objective standard of reasonableness" almost always equates to a determination that the counselor acted with

sheer incompetence defiant to minimum standards of professional conduct and established norms. Reasonable judgments on how to proceed with adequately arguing a case in a client's favor, even if ultimately fruitless, are far below the bar to establish ineffective assistance See *Harrington* v. *Richter*, 562 U. S. 86, 105 (2010) ("The question [in a *Strickland* claim] is whether an attorney's representation amounted to incompetence under prevailing professional norms, not whether it deviated from best practices or most common custom"); see also *Yarborough* v. *Gentry*, 540 U. S. 1, 6 (2003) ("counsel has wide latitude in deciding how best to represent a client, and deference to counsel's tactical decisions . . . is particularly important because of the broad range of legitimate defense strategy at [closing argument]").

There is not a standing merit to the argument of ineffective counsel presented by petitioner other than he didn't present the defense he wanted. Which, surprise-surprise, is not a qualifying factor established under Strickland or any of the other aforementioned captioned cases. We consequently deny his presented arguments and deem that he did in fact have an effective assistance of counsel under the laws and Constitution of the United States. Therefore, we find that the first two questions presented by petitioner to be plausible but on the ineffective counsel question, is in essence, frivolous.

"Structural errors" are not subject to a "harmless error" standard, and require automatic reversal. *United States* v. *Gonzalez-Lopez*, 548 U. S. 140, 159 (2006); *Neder* v. *United States*, 527 U. S. 1 (1999).

The judgment of the District Court is reversed and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 09–51

TASKFORCEBIUE, PETITIONER *v.* UNITED STATES

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

[April 18, 2021]

JUSTICE POWELL, dissenting.

The Court today chooses to reverse an individual's conviction despite the fact that he has left the United States of America, is virtually unreachable through any communications platform, and his sentence has long expired. Because the Court errs in doing so, I dissent.

I

"Federal courts are courts of limited jurisdiction … possess[ing] only that power authorized by Constitution and statute." *Kokkonen* v. *Guardian Life Ins. Co. of America,* 511 U. S. 375, 377 (1994). In our case, Article III, § 2 limits our jurisdiction to "Cases" and "Controversies," and "courts have 'no business' deciding legal disputes or expounding on law in the absence of such a case or controversy." *Already, LLC* v. *Nike, Inc.,* 568 U. S. 85, 90 (2013) (quoting *DaimlerChrysler Corp.* v. *Cuno,* 547 U. S. 332, 341 (2006)). These cases and controversies must be "actual" and "ongoing," *Honig* v. *Doe,* 484 U. S. 305, 317 (1988), because the case and controversy requirement "subsists through all stages of federal judicial proceedings, trial and appellate." *Chafin* v. *Chafin,* 568 U. S. 165, 172 (2013) (quoting *Lewis* v. *Continental Bank Corp.,* 494 U. S. 472, 477 (1990)). Thus, parties must not merely have a "personal stake" at the time of filing, but also "in the ultimate disposition of the lawsuit." *Id.*

The doctrine of mootness helps maintain Article III's cases or controversies requirement by preventing us from deciding "moot questions or abstract propositions." *Heave* v. *United States,* 5 U. S. 85 (2018). A suit becomes moot for the purposes of Article III "when the issues are no longer live or the parties lack a legally cognizable interest in the outcome." *Already,* 568 U. S., at 91 (internal quotation marks omitted). However, a case "becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party." *Chafin,* 568 U. S., at 172 (quoting *Knox* v. *Service Employees,* 567 U. S. 297, 308 (2012)). "As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot." *Id.*

II

There is no doubt that at the time of this appeal, petitioner had a concrete interest in the outcome of the litigation. Fresh off a potentially erroneous conviction in the District Court, his petition was timely filed, and he participated in the proceedings through his counsel. However, I do not believe he has such an interest now.

For one, petitioner had participated through his attorney, BlueKillerForever. At no point did he personally join the Discord in order to participate in these proceedings. So if petitioner's attorney stopped communicating with us, then petitioner would effectively be unable to do so either.

Petitioner's attorney did exactly just that. While this case was pending, BlueKillerForever left the communications server where we held arguments. While leaving a Discord server may not immediately mean that a party loses the personal stake in his case, cf. *Benda* v. *United States,* 6 U. S. 24, 29-30 (2018), the question we ultimately must deal with in the mootness inquiry is whether petitioner "still wishes to pursue his case." *Id.,* at 29.

Start with *Benda.* There, the petitioner had challenged § 401(g) of the Consolidated Appropriations Act of August

2018, Pub. L. No. 66-5. While his case was pending, the petitioner announced on a global forum post that he was quitting ROBLOX. *Id.,* at 29. Despite this, the petitioner continued to participate in the case, taking actions such as joining our communications server, interacting in the case channel, and even designating an attorney. *Id.,* at 29-30.

But where the petitioner in *Benda* demonstrated that he had a "continued interest in the decision of his case," *Id.,* at 30, petitioner here clearly has not. Not only has petitioner taken steps to demonstrate his continued interest in this appeal, his attorney has not done so either. Since BlueKillerForever left the communications server, he has not made any attempts to rejoin in order to inquire about this case. Neither has petitioner. Second, petitioner has already left the United States,[1] which, although is not outcome-determinative either, serves as another factor to be considered. Finally, petitioner's sentence has already expired,[2] which lends credibility to the other two factors.

Previously, we held that in criminal cases, "a defendant wishing to continue his appeals after the expiration of his sentence must suffer some 'continuing injury' or 'collateral consequence' sufficient to satisfy Article III['s cases or controversies requirement]." *United States* v. *Juvenile Male,* 564 U. S. 932, 936 (2011) (*per curiam*) (quoting *Spencer* v. *Kemna,* 523 U. S. 1, 7-8 (1998). Although we have presumed continuing injuries and collateral consequences in the past where petitioners have challenged their convictions, see *Juvenile Male,* 564 U. S. at 936, they do not save petitioner's case. Petitioner's decision to leave the United States, as well as his attorney's decision to leave the communications

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[1] TaskForceBIue's Profile, ROBLOX, Mar. 26, 2020 at 05:15PM EST, available at https://www.roblox.com/users/1384774822/profile.

[2] Astonishingly, although we stayed petitioner's sentence pending the proceedings of this Court, the District Court made no note of our stay and continued the sentence. The sentence expired on July 11th, 2020.

server serve to indicate that petitioner no longer has a concrete interest in vindicating his rights. The fact that petitioner is no longer in the United States would also mean that he cannot suffer from any continuing injuries or collateral consequences from his conviction required to sustain Article III's injury-in-fact requirement, much less demonstrate a "concrete interest . . . in the outcome of the litigation." *Chafin,* 568 U. S., at 172; *Juvenile Male,* 564 U. S., at 936.

* * *

"It takes time to decide a case on appeal. Sometimes a little; sometimes a lot." *Nken* v. *Holder,* 556 U. S. 418, 421 (2009). Clearly, we took way more time than needed to decide this case, and today's decision certainly came "too late for the party seeking review." *Id.*

But even if our decision was untimely to petitioner, his decision to leave the United States, coupled with his counsel leaving our communications server and his sentence expiring clearly makes this case moot. I would therefore dismiss this case. Because the Court does not do so today, I respectfully dissent.