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

CADLWELL *v.* DREAM

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

No. 09–14. Argued April 15, 2020—Decided May 6, 2020

After a Federal District Court found RichoCaldwell liable for tortious false imprisonment, it ordered him to provide a written statement to the plaintiff apologizing for his actions. He timely appealed that decision and argued that the remedy ordered by the District Court was unconstitutional under the First and Fifth Amendments.

Held: A court-ordered apology is only permissible as an alternative remedy to some other more concrete form of relief. Pp. 1–3.

(a) Apologies do not "mend bones, fix homes, or pay for expensive surgeries" but they do provide "an emotional support unavailable from less-than-human remedies." There is therefore a remedial basis for court-ordered apologies, however it must come secondary to some more concrete form of relief because an apology alone is insufficiently concrete to remedy an injury. Pp. 1–2.

(b) Court-ordered apologies do not violate the textual terms of the First Amendment and would appear to be impliedly authorized by other constitutional provisions. P. 2.

(c) The Fifth Amendment's privilege against self-incrimination requires that a defendant have the option to take some other more traditional form of punishment in lieu of a court-ordered apology. Pp. 2–3.

4:20–1450, vacated and remanded.

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

SUPREME COURT OF THE UNITED STATES

No. 09–14

RICHOCALDWELL, PETITIONER *v.* D_AYYDREAM

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

[May 6, 2020]

JUSTICE PITNEY delivered the opinion of the Court.

The case before us asks us to consider the constitutionality of a court ordered apology. Many scholars have approached this topic with differing opinions. See White, "Say You're Sorry," 91 Cornell L. Rev. 1261 (2006); Smith, "Against Court Ordered Apologies," 16 New Crim. L. Rev. 1 (2013). Petitioner argues that "[t]he right to speak and the right to refrain from speaking are complementary components of the broader concept of 'individual freedom of mind.'" Brief for Petitioner 4 (quoting *West Vir. Bd. of Ed.* v. *Barnette*, 319 U. S. 624 (1943)). While this is fundamentally correct, see *Miranda* v. *Arizona* 384 U. S. 436, 462 (1966), the application of such to the case afoot is an error on the petitioner. Many questions arise when we consider an apology as a relief from damages. An apology does not mend bones, fix homes, or pay for expensive surgeries. However, an apology provides an emotional support unavailable from less-than-human remedies. We recognize that any remedy must serve to mitigate an injury sustained. It must come therefore that an apology, to be accepted as a form of relief, must mitigate some injury. In *Lujan* v. *Defenders of Wildlife*, 504 U. S. 555 (1992), we

recognized that judicially cognizable injuries must be "concrete and particularized." *Id.*, at 560. It is through continuous lateral thinking that a remedy to a "concrete" injury must also be concrete. In this regard an apology alone fails to satisfy. This, however, is not an absolute closure of court ordered apologies. In this regard we would recognize an apology as a secondary form of relief to injuries sustained.

The discussion of court ordered apologies does not rest here. The First Amendment still stands and the argument that the very order of an apology is unconstitutional left unanswered. Speech, of course, is protected by the First Amendment amongst many things. This is uncontested. However, the First Amendment by its textual terms only protects speech from being abridged by legislation. It does not intrinsically protect against punitive orders. Indeed, we must seek further clarification from the Constitution. The Thirteenth Amendment is the skeleton key to unlocking this case. It provides: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in the United States," U. S. Const., amend. XIII, §1. Involuntary servitude is defined, according to Black's Law Dictionary and within the bounds of this Court, as "[a] person who is wholly subject to the will of another." To be ordered to speak, is to be wholly subject to the will of the orderer, and is therefore within such definition. Outside the bounds of punishment, the Constitution is clear in its unconstitutionality. However, the antithesis is the case here. Petitioner was found to be guilty of the torts levied against him and therefore it is reasonable for the District Court to order him to perform involuntary servitude.

Finally, a discussion must be had in how an apology is bound within the Fifth Amendment, which provides: "No person shall be subject for the same offence twice; *nor shall be compelled in any criminal case to be a witness against himself*," U. S. Const., amend. V, §1 (emphasis added). To

apologize is to admit guilt. This is the fundamentals of an apology. Therefore, we see that if an individual is forced to apologize while claiming innocence, his Fifth Amendment rights will have been violated. It is with these complexities we promote a two-pronged test when a Court decides an apology is a reasonable secondary relief to injury. First, some more "concrete" relief must also be ordered; second, if the defendant maintains his innocence, an option to serve a more concrete, and traditional punishment must be offered in lieu of the apology. It is with this in mind we recognize that in this case, the defendant was not offered the ability to assure his innocence. By failing to provide petitioner the option to serve a more concrete and traditional punishment his Fifth Amendment rights were violated.

We vacate the judgment of the District Court and remand for further proceedings consistent with this opinion.

It is so ordered.