

A baseball fan has a fierce temper and an extremely loud voice. Attending a baseball game in which a number of calls went against the home team, the fan repeatedly stood up, brandished his fist, and angrily shouted, "Kill the umpires." The fourth time he engaged in this conduct, many other spectators followed the fan in rising from their seats, brandishing fists, and shouting, "Kill the umpires."

The home team lost the game. Although no violence ensued, spectators crowded menacingly around the umpires after the game. As a result, the umpires were able to leave the field and stadium only with the help of a massive police escort.

For his conduct, the fan was charged with inciting to riot and was convicted in a jury trial in state court. He appealed. The state supreme court reversed his conviction. In its opinion, the court discussed in detail decisions of the United States Supreme Court dealing with the First Amendment free speech clause as incorporated into the Fourteenth Amendment. At the end of that discussion, however, the court stated that it "need not resolve how, on the basis of these cases," the United States Supreme Court would decide the fan's case. "Instead," the court stated, "this court has always given the free-speech guarantee of the state's constitution the broadest possible interpretation. As a result, we hold that in this case, where no riot or other violence actually occurred, the state constitution does not permit this conviction for incitement to riot to stand."

The United States Supreme Court grants a writ of certiorari to review this decision of the state supreme court.

In this case, how should the United States Supreme Court rule?

- A. Affirm the state supreme court's decision, because the fan's ballpark shout is commonplace hyperbole that cannot, consistent with the First and Fourteenth Amendments, be punished.
- B. Dismiss the writ as improvidently granted, because the state supreme court's decision rests on an independent and adequate state-law ground.
- C. Remand the case to the state supreme court with directions that it resolve the First and Fourteenth Amendment free-speech issue that it discussed in such detail.
- D. Reverse the decision of the state supreme court, because incitement to violent action is not speech protected by the First and Fourteenth Amendments.

Explanation:

The **Supreme Court of the United States** (SCOTUS) may use its discretionary [appellate jurisdiction](#) and grant a writ of certiorari to review **state court judgments**. But since SCOTUS may only review such judgments if they are based on federal law, it **cannot review** a judgment based on **adequate and independent state grounds**. This occurs when:

- **state law fully resolves** the matter, so the outcome of the case is not affected by federal law (adequate) *and*
- the state court **did not rely on federal law** to reach its decision (independent).

If a writ of certiorari was improvidently (ie, incorrectly) granted in such a case, SCOTUS must dismiss the writ.

Here, the state supreme court reversed the fan's criminal conviction for inciting a riot on a *state* constitutional ground. The court held that the state constitution grants broader free-speech protection than the U.S. Constitution (adequate ground). And though the court discussed First Amendment cases in detail, it clearly stated that its decision was not based on that caselaw (independent ground). Therefore, the state supreme court's decision rests on an independent and adequate state ground, and SCOTUS must dismiss the writ as improvidently granted.

(Choices A & D) When a case is decided on adequate and independent state grounds (as seen here), SCOTUS has no jurisdiction to affirm or reverse that case on its merits. As a result, SCOTUS cannot decide whether the fan's ballpark shout is commonplace hyperbole or [unprotected speech](#) subject to punishment.

(Choice C) The state court need not resolve the federal constitutional issue since its decision was based on an adequate and independent state ground. But even if the decision was not based on such a ground, SCOTUS would not ask the state court to resolve the federal constitutional issue. Instead, it would rule on that issue and remand the case to state court to resolve any remaining state-law issues.

Educational objective:

SCOTUS only has jurisdiction to review a state supreme court decision based on federal law—*not* adequate and independent state grounds.

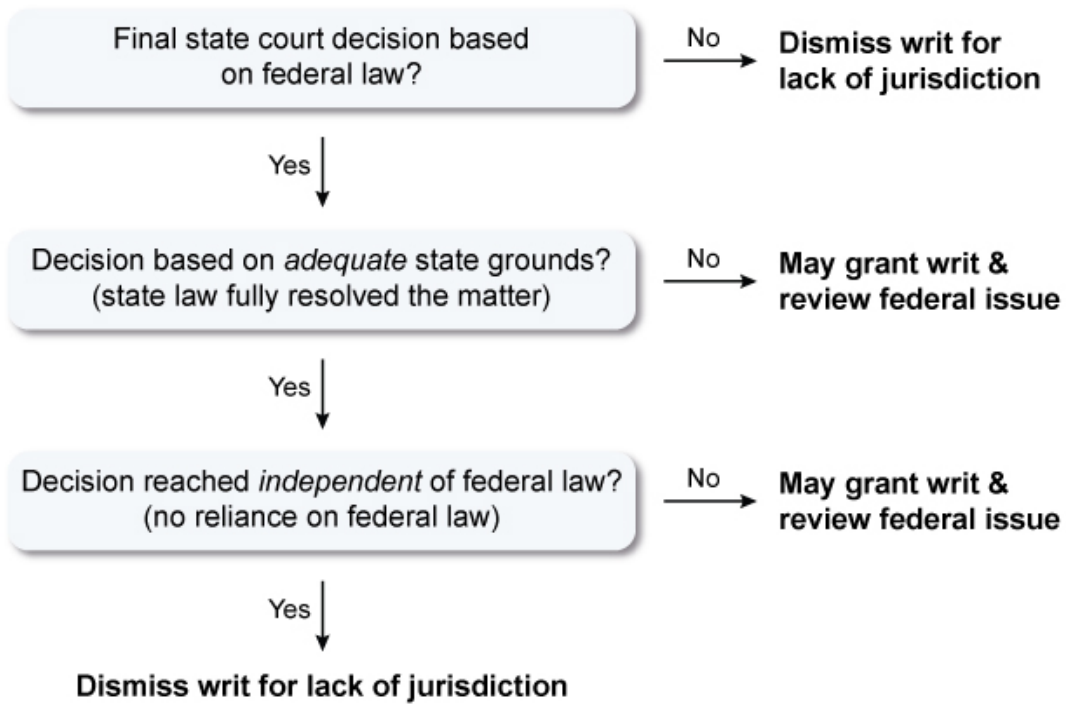
References

- Michigan v. Long, 463 U.S. 1032, 1040–41 (1983) (explaining when a state supreme court judgment rests on adequate and independent state grounds).

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SCOTUS review of state court decisions



SCOTUS = Supreme Court of the United States

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