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

STEWART, DIRECTOR, ARIZONA DEPARTMENT OF CORRECTION, ET AL. *v.* MARTINEZ-VILLAREAL

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 97–300. Argued February 25, 1998– Decided May 18, 1998

Respondent was convicted of first-degree murder and sentenced to death. His direct appeals and habeas petitions in the Arizona state courts were unsuccessful, and his first three federal habeas petitions were denied on the ground that he had not exhausted his state remedies. In his fourth federal habeas petition, he claimed, *inter alia*, that he was incompetent to be executed under *Ford* v. *Wainwright*, 477 U. S. 399. The District Court dismissed that claim as premature, but granted the writ on other grounds. In reversing the granting of the writ, the Ninth Circuit explained that its ruling was not intended to affect later litigation of the *Ford* claim. On remand, respondent moved to reopen his petition, fearing that review of his *Ford* claim might be foreclosed by the newly enacted Antiterrorism and Effective Death Penalty Act (AEDPA), which establishes a "gatekeeping" mechanism for the consideration of "second or successive [federal] habeas corpus applications," *Felker* v. *Turpin*, 518 U. S. 651, ___; 28 U. S. C. A. §2244(b). Under AEDPA, a prisoner must ask the appropriate court of appeals to direct the district court to consider such an application, §2244(b)(3)(A), and a court of appeals' decision whether to authorize an application's filing is not appealable and cannot be the subject of a petition for rehearing or a writ of certiorari, §2244(b)(3)(E). The District Court denied the motion. Subsequently, Arizona obtained a warrant for respondent's execution, and the state courts found him fit to be executed. The District Court denied another motion to reopen his *Ford* claim, holding that it lacked jurisdiction under AEDPA. He then asked the Ninth Circuit for permission to file a successive habeas application. That court held that §2244(b) did not apply to a petition that raises only a competency to be exe-

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cuted claim and that respondent did not, therefore, need authorization to file his petition in the District Court.

Held:

1. Because respondent's claim was not a "second or successive" petition under §2244(b), this Court has jurisdiction to review the Ninth Circuit's judgment on the State's certiorari petition. The fact that this was the second time that respondent asked the federal courts to provide relief on his *Ford* claim does not mean that there were two separate applications, the second of which was necessarily subject to §2244(b). There was only one application for habeas relief, and the District Court ruled (or should have ruled) on each claim when it became ripe. Since respondent was entitled to an adjudication of all of the claims presented in his earlier, undoubtedly reviewable, application, the Ninth Circuit correctly held that he was not required to get authorization to file a "second or successive" application before his *Ford* claim could be heard. Accepting the State's interpretation— that once an individual has one fully litigated habeas petition, his new petition must be treated as successive— would have far reaching and seemingly perverse implications for habeas practice. This Court's cases have never suggested that a prisoner whose habeas petition was dismissed for failure to exhaust state remedies, and who then did exhaust those remedies and returned to federal court, was by such action filing a successive petition. A court would adjudicate those claims under the same standard as would govern those made in any other first petition. Respondent's *Ford* claim— previously dismissed as premature— should be treated in the same manner, for, in both situations, the habeas petitioner does not receive an adjudication of his claim. To hold otherwise would mean that a dismissal of a first habeas petition for technical procedural reasons, having nothing to do with the claim's merits, would bar the prisoner from ever obtaining federal habeas review. The State's reliance on *Felker* v. *Turpin*, *supra*, for a contrary interpretation is misplaced. Pp. 3–7.

2. For the same reasons that this Court finds it has jurisdiction, it finds that the Ninth Circuit correctly decided that respondent was entitled to a hearing on the merits of his *Ford* claim in the District Court. P. 7.

118 F. 3d 628, affirmed.

REHNQUIST, C. J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined.