SUPREME COURT OF THE UNITED STATES

No. 08–267

UNITED STATES, PETITIONER *v.* JACOB DENEDO

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

[June 8, 2009]

JUSTICE KENNEDY delivered the opinion of the Court.

The case before us presents a single issue: whether an Article I military appellate court has jurisdiction to entertain a petition for a writ of error *coram nobis* to challenge its earlier, and final, decision affirming a criminal conviction. The military court which had affirmed the conviction and where the writ of *coram nobis* was sought is the Navy-Marine Corps Court of Criminal Appeals (NMCCA). Its ruling that it had jurisdiction to grant the writ, but then denying its issuance for lack of merit, was appealed to the United States Court of Appeals for the Armed Forces (CAAF). After the CAAF agreed that the NMCCA has jurisdiction to issue the writ, it remanded for further proceedings on the merits. The Government of the United States, contending that a writ of *coram nobis* directed to a final judgment of conviction is beyond the jurisdiction of the military courts, now brings the case to us.

I

Respondent Jacob Denedo came to the United States in 1984 from his native Nigeria. He enlisted in the Navy in 1989 and became a lawful permanent resident in 1990. In 1998, military authorities charged him with conspiracy,

larceny, and forgery—in contravention of Articles 81, 121, and 123 of the Uniform Code of Military Justice (UCMJ), 10 U. S. C. §§881, 921, 923—all for his role in a scheme to defraud a community college. With the assistance of both military and civilian counsel, respondent made a plea bargain to plead guilty to reduced charges. In exchange for his plea the convening authority referred respondent's case to a special court-martial, §819, which, at that time, could not impose a sentence greater than six months' confinement.

The special court-martial, consisting of a single military judge, accepted respondent's guilty plea after determining that it was both knowing and voluntary. The court convicted respondent of conspiracy and larceny. It sentenced him to three months' confinement, a bad-conduct discharge, and a reduction to the lowest enlisted pay grade. Respondent appealed on the ground that his sentence was unduly severe. The NMCCA affirmed. App. to Pet. for Cert. 64a–67a. Respondent did not seek further review in the CAAF, and he was discharged from the Navy on May 30, 2000.

In 2006, the Department of Homeland Security commenced removal proceedings against respondent based upon his special court-martial conviction. To avoid deportation, respondent decided to challenge his conviction once more, though at this point it had been final for eight years. He maintained, in a petition for a writ of *coram nobis* filed with the NMCCA, that the conviction it had earlier affirmed must be deemed void because his guilty plea was the result of ineffective assistance of counsel. Respondent alleged that he informed his civilian attorney during plea negotiations that "'his primary concern and objective'" was to avoid deportation and that he was willing to "'risk . . . going to jail'" to avert separation from his family. 66 M. J. 114, 118 (C. A. Armed Forces 2008). On respondent's account, his attorney—an alcoholic who was not

sober during the course of the special court-martial proceeding—erroneously assured him that "'if he agreed to plead guilty at a special-court-martial he would avoid any risk of deportation.'" *Ibid.* Petitioner argued that the NMCCA could set aside its earlier decision by issuing a writ of *coram nobis* under the authority of the All Writs Act, 28 U. S. C. §1651(a).

The Government filed a motion to dismiss for want of jurisdiction. It contended that the NMCCA had no authority to conduct postconviction proceedings. In a terse, four-sentence order, the NMCCA summarily denied both the Government's motion and respondent's petition for a writ of *coram nobis*. App. to Pet. for Cert. 63a. Respondent appealed and the CAAF, dividing 3 to 2, affirmed in part and reversed in part. The CAAF agreed with the NMCCA that standing military courts have jurisdiction to conduct "collateral review under the All Writs Act." 66 M. J., at 119. This is so, the CAAF explained, because "when a petitioner seeks collateral relief to modify an action that was taken within the subject matter jurisdiction of the military justice system . . . a writ that is necessary or appropriate may be issued under the All Writs Act 'in aid of' the court's existing jurisdiction." *Id.,* at 120 (citing 28 U. S. C. §1651(a)).

Satisfied that it had jurisdiction, the CAAF next turned to whether the writ of *coram nobis* should issue. It held that a nondefaulted, ineffective-assistance claim that was yet to receive a full and fair review "within the military justice system" could justify issuance of the writ. 66 M. J., at 125. Finding that respondent's ineffective-assistance claim satisfied "the threshold criteria for coram nobis review," the CAAF remanded to the NMCCA so it could ascertain in the first instance "whether the merits of [respondent's] petition can be resolved on the basis of the written submissions, or whether a factfinding hearing is required." *Id.*, at 126, 130.

Judge Stucky filed a dissenting opinion. Assuming that the majority had correctly determined its jurisdiction to grant the requested relief, he concluded that respondent's ineffective-assistance claim lacked merit. *Id.*, at 131. Judge Ryan also dissented. Reasoning that the majority had misapplied this Court's holding in *Clinton* v. *Goldsmith,* 526 U. S. 529 (1999), she concluded that the UCMJ does not confer jurisdiction upon military tribunals to conduct "post-finality collateral review." 66 M. J., at 136. We granted certiorari, 555 U. S. ___ (2008), and now affirm.

II

Before we address another court's subject-matter jurisdiction we must first determine our own. See *Ashcroft* v. *Iqbal*, *ante,* at 6 ("Subject-matter jurisdiction . . . should be considered when fairly in doubt"). The Government, upon which the burden to demonstrate subject-matter jurisdiction lies, *DaimlerChrysler Corp.* v. *Cuno,* 547 U. S. 332, 342 (2006), claims that our power to hear this appeal rests on 28 U. S. C. §1259(4). That jurisdictional provision permits us to review CAAF decisions in "'cases . . . in which the Court of Appeals for the Armed Forces . . . granted relief.'" Respondent maintains that we lack jurisdiction because the CAAF did not "'grant relief'"; "all it did was remand" to the NMCCA. Brief for Respondent 6–7 (brackets omitted).

Respondent's parsimonious construction of the word "relief" need not detain us long. Though §1259 does not define the term, its familiar meaning encompasses any "redress or benefit" provided by a court. Black's Law Dictionary 1317 (8th ed. 2004). The CAAF's judgment reversing the NMCCA satisfies that definition. The NMCCA denied respondent's petition for a writ of *coram nobis,* while the CAAF's decision reversed and remanded so that the NMCCA could determine anew if the writ

should issue. That decision conferred a palpable benefit on respondent; for a chance of success on the merits, however slight, is superior to no possibility at all.

To be sure, respondent would have preferred the CAAF to issue a writ of *coram nobis* or to direct the NMCCA to do so rather than remanding for the NMCCA to conduct further proceedings. We have jurisdiction, however, to review any decision granting "relief," not just those providing "ultimate relief" or "complete relief." Indeed, appellate courts reverse and remand lower court judgments—rather than issuing complete relief—with regularity. See, *e.g., Arthur Andersen LLP* v. *Carlisle*, *ante,* at ___; *FCC* v. *Fox Television Stations, Inc.*, *ante,* at ___. There is no merit to the view that a decision granting partial relief should be construed as granting no relief at all.

Because the CAAF "granted relief" to respondent, the text of §1259 is satisfied here. We have jurisdiction to determine whether the CAAF was correct in ruling that the NMCCA had authority to entertain the petition for a writ of *coram nobis*.

III

A

The writ of *coram nobis* is an ancient common-law remedy designed "to correct errors of fact." *United States* v. *Morgan*, 346 U. S. 502, 507 (1954). In American jurisprudence the precise contours of *coram nobis* have not been "well defined," *Bronson* v. *Schulten*, 104 U. S. 410, 416 (1882), but the writ traces its origins to the King's Bench and the Court of Common Pleas. *United States* v. *Plumer*, 27 F. Cas. 561, 573 (No. 16,056) (CC Mass. 1859) (opinion for the court by Clifford, Circuit Justice); see also *Morgan*, *supra,* at 507, n. 9 (citing 2 W. Tidd, Practice of Courts of King's Bench and Common Pleas *1136–*1137). In English practice the office of the writ was to foster respect for judicial rulings by enabling the same court

"where the action was commenced and where the judgment was rendered" to avoid the rigid strictures of judgment finality by correcting technical errors "such as happened through the fault of the clerk in the record of the proceedings prior to the judgment." *Plumer*, *supra*, at 572–573.

Any rationale confining the writ to technical errors, however, has been superseded; for in its modern iteration *coram nobis* is broader than its common-law predecessor. This is confirmed by our opinion in *Morgan*. In that case we found that a writ of *coram nobis* can issue to redress a fundamental error, there a deprivation of counsel in violation of the Sixth Amendment, as opposed to mere technical errors. 346 U. S., at 513. The potential universe of cases that range from technical errors to fundamental ones perhaps illustrates, in the case of *coram nobis*, the "tendency of a principle to expand itself to the limit of its logic." B. Cardozo, The Nature of the Judicial Process 51 (1921). To confine the use of *coram nobis* so that finality is not at risk in a great number of cases, we were careful in *Morgan* to limit the availability of the writ to "extraordinary" cases presenting circumstances compelling its use "to achieve justice." 346 U. S., at 511. Another limit, of course, is that an extraordinary remedy may not issue when alternative remedies, such as habeas corpus, are available. See *id.*, at 510–511.

In federal courts the authority to grant a writ of *coram nobis* is conferred by the All Writs Act, which permits "courts established by Act of Congress" to issue "all writs necessary or appropriate in aid of their respective jurisdictions." 28 U. S. C. §1651(a). Though military courts, like Article III tribunals, are empowered to issue extraordinary writs under the All Writs Act, *Noyd* v. *Bond*, 395 U. S. 683, 695, n. 7 (1969), that authority does not determine the anterior question whether military courts have jurisdiction to entertain a petition for *coram nobis*. As the

text of the All Writs Act recognizes, a court's power to issue any form of relief—extraordinary or otherwise—is contingent on that court's subject-matter jurisdiction over the case or controversy.

Assuming no constraints or limitations grounded in the Constitution are implicated, it is for Congress to determine the subject-matter jurisdiction of federal courts. *Bowles* v. *Russell*, 551 U. S. 205, 212 (2007) ("Within constitutional bounds, Congress decides what cases the federal courts have jurisdiction to consider"). This rule applies with added force to Article I tribunals, such as the NMCCA and CAAF, which owe their existence to Congress' authority to enact legislation pursuant to Art. I, §8 of the Constitution. *Goldsmith*, 526 U. S., at 533–534.

Our decision in *Goldsmith* demonstrates these teachings. There an Air Force officer, James Goldsmith, was convicted of various crimes by general court-martial and sentenced to six years' confinement. *Id.,* at 531. Following his conviction, Congress enacted a statute authorizing the President to drop convicted officers from the rolls of the Armed Forces. When the Air Force notified Goldsmith that he would be dropped from the rolls, he lodged a petition before the Air Force Court of Criminal Appeals (AFCCA) claiming that the proposed action contravened the *Ex Post Facto* Clause of the Constitution. *Id.,* at 532–533. Goldsmith sought extraordinary relief as authorized by the All Writs Act to enjoin the President from removing him from the rolls. The AFCCA denied relief, but the CAAF granted it.

Concluding that the UCMJ does not authorize military courts to review executive action—including a decision to drop an officer from the rolls—we held that the AFCCA and the CAAF lacked jurisdiction over Goldsmith's case. *Id.,* at 535. This was so, we unequivocally found, irrespective of the military court's authority to issue extraordinary relief pursuant to the All Writs Act and its previous juris-

diction over Goldsmith's criminal proceeding. The power to issue relief depends upon, rather than enlarges, a court's jurisdiction. *Id.,* at 536–537.

That principle does not control the question before us. Because *coram nobis* is but an extraordinary tool to correct a legal or factual error, an application for the writ is properly viewed as a belated extension of the original proceeding during which the error allegedly transpired. See *Morgan, supra,* at 505, n. 4 (*coram nobis* is "a step in the criminal case and not, like habeas corpus where relief is sought in a separate case and record, the beginning of a separate civil proceeding"); see also *United States* v. *Beggerly*, 524 U. S. 38, 46 (1998) (citing *Pacific R. Co. of Mo.* v. *Missouri Pacific R. Co.*, 111 U. S. 505, 522 (1884) (noting that an "independent action"—which, like *coram nobis*, is an equitable means to obtain relief from a judgment—"'may be regarded as ancillary to the prior suit, so that the relief asked may be granted by the court which made the decree in that suit . . . . The bill, though an original bill in the chancery sense of the word, is a continuation of the former suit, on the question of the jurisdiction of the [court]'"). It follows that to issue respondent a writ of *coram nobis* on remand, the NMCCA must have had statutory subject-matter jurisdiction over respondent's original judgment of conviction.

B

In the critical part of its opinion discussing the jurisdiction and authority of the NMCCA to issue a writ of *coram nobis* in an appropriate case, the CAAF describes respondent's request for review as one "under the All Writs Act." 66 M. J., at 119. This is correct, of course, if it simply confirms that the Act authorizes federal courts to issue writs "in aid of" their jurisdiction; but it does not advance the inquiry into whether jurisdiction exists.

And there are limits to the use of *coram nobis* to alter or

interpret earlier judgments. As *Goldsmith* makes plain, the All Writs Act and the extraordinary relief the statute authorizes are not a source of subject-matter jurisdiction. 526 U. S., at 534–535. Statutes which address the power of a court to use certain writs or remedies or to decree certain forms of relief, for instance to award damages in some specified measure, in some circumstances might be construed also as a grant of jurisdiction to hear and determine the underlying cause of action. Cf. *Marbury* v. *Madison*, 1 Cranch 137 (1803). We have long held, however, that the All Writs Act should not be interpreted in this way. *Goldsmith, supra,* at 536; *Plumer*, 27 F. Cas., at 574 (jurisdiction cannot be acquired "by means of the writ to be issued"). The authority to issue a writ under the All Writs Act is not a font of jurisdiction. See *Syngenta Crop Protection, Inc.* v. *Henson*, 537 U. S. 28, 31 (2002).

Quite apart from the All Writs Act, we conclude that the NMCCA has jurisdiction to entertain respondent's request for a writ of *coram nobis*. Article 66 of the UCMJ provides: "For the purpose of reviewing court-martial cases, the [Court of Criminal Appeals] may sit . . . ." 10 U. S. C. §866(a). Because respondent's request for *coram nobis* is simply a further "step in [his] criminal" appeal, *Morgan*, 346 U. S., at 505, n. 4, the NMCCA's jurisdiction to issue the writ derives from the earlier jurisdiction it exercised to hear and determine the validity of the conviction on direct review. As even the Government concedes, the textual authority under the UCMJ to "'revie[w] court-martial cases'" provided the NMCCA with jurisdiction to hear an appeal of respondent's judgment of conviction. See Brief for United States 17–18. That jurisdiction is sufficient to permit the NMCCA to entertain respondent's petition for *coram nobis*. See also Courts of Criminal Appeals Rule of Practice and Procedure 2(b) (recognizing NMCCA discretionary authority to entertain petitions for extraordinary writs).

It is true that when exercising its jurisdiction under §866(a), the NMCCA "may act only with respect to the findings and sentence as approved by the convening authority." §866(c). That limitation does not bar respondent's request for a writ of *coram nobis*. An alleged error in the original judgment predicated on ineffective-assistance-of-counsel challenges the validity of a conviction, see *Knowles* v. *Mirzayance*, *ante,* at 3, so respondent's Sixth Amendment claim is "with respect to" the special-court-martial's "findings of guilty," 10 U. S. C. §866(c). Pursuant to the UCMJ, the NMCCA has subject-matter jurisdiction to hear respondent's request for extraordinary relief.

Because the NMCCA had jurisdiction over respondent's petition for *coram nobis*, the CAAF had jurisdiction to entertain respondent's appeal from the NMCCA's judgment. When exercising its jurisdiction, the CAAF's authority is confined "to matters of law" connected to "the findings and sentence as approved by the convening authority and as affirmed or set aside . . . by the Court of Criminal Appeals," §867(c), but these limitations pose no obstacle to respondent's requested review of the NMCCA's decision. Respondent's Sixth Amendment claim presents a "matte[r] of law" "with respect to the [guilty] findings . . . as approved by the [special court-martial] and as affirmed . . . by the Court of Criminal Appeals." *Ibid*. The CAAF had subject-matter jurisdiction to review the NMCCA's denial of respondent's petition challenging the validity of his original conviction.

C

The Government counters that Article 76 of the UCMJ, 10 U. S. C. §876, "affirmatively prohibit[s] the type of collateral review sought by respondent." Brief for United States 18. That is incorrect. The Government's argument commits the error of "conflating the jurisdictional question

with the merits" of respondent's petition. *Arthur Andersen LLP*, *ante,* at 3. Article 76 states in relevant part:

> "The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive. Orders publishing the proceedings of courts-martial and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States . . . ." 10 U. S. C. §876.

Article 76 codifies the common-law rule that respects the finality of judgments. *Schlesinger* v. *Councilman*, 420 U. S. 738, 749 (1975). Just as the rules of finality did not jurisdictionally bar the court in *Morgan* from examining its earlier judgment, neither does the principle of finality bar the NMCCA from doing so here.

The Government may ultimately be correct that the facts of respondent's case are insufficient to set aside the final judgment that Article 76 makes binding. No doubt, judgment finality is not to be lightly cast aside; and courts must be cautious so that the extraordinary remedy of *coram nobis* issues only in extreme cases. But the long-recognized authority of a court to protect the integrity of its earlier judgments impels the conclusion that the finality rule is not so inflexible that it trumps each and every competing consideration. Our holding allows military courts to protect the integrity of their dispositions and processes by granting relief from final judgments in extraordinary cases when it is shown that there were fundamental flaws in the proceedings leading to their issuance. The Government remains free to argue that

respondent's is a merely ordinary case that is not entitled to extraordinary relief. But respondent's entitlement to relief is a merits question outside the scope of the jurisdictional question presented.

The Government's contention that *coram nobis* permits a court "to correct its *own* errors, not . . . those of an inferior court," Brief for United States 36, can be disposed of on similar grounds. Just as respondent's request for *coram nobis* does not confer subject-matter jurisdiction, the Government's argument that the relief should not issue "in light of the writ's traditional scope" does not undermine it, *ibid.* (emphasis deleted). In sum, the Government's argument speaks to the scope of the writ, not the NMCCA's jurisdiction to issue it. The CAAF rejected the former argument. Only the latter one is before us.

We hold that Article I military courts have jurisdiction to entertain *coram nobis* petitions to consider allegations that an earlier judgment of conviction was flawed in a fundamental respect. That conclusion is consistent with our holding that Article III courts have a like authority. *Morgan,* 346 U. S., at 508. The result we reach today is of central importance for military courts. The military justice system relies upon courts that must take all appropriate means, consistent with their statutory jurisdiction, to ensure the neutrality and integrity of their judgments. Under the premises and statutes we have relied upon here, the jurisdiction and the responsibility of military courts to reexamine judgments in rare cases where a fundamental flaw is alleged and other judicial processes for correction are unavailable are consistent with the powers Congress has granted those courts under Article I and with the system Congress has designed.

* * *

We do not prejudge the merits of respondent's petition. To be sure, the writ of error *coram nobis* is an extraordi-

nary writ; and "an extraordinary remedy . . . should not be granted in the ordinary case." *Nken* v. *Holder*, *ante,* at 1 (KENNEDY, J., concurring). The relative strength of respondent's ineffective-assistance claim, his delay in lodging his petition, when he learned or should have learned of his counsel's alleged deficiencies, and the effect of the rule of judgment finality expressed in Article 76 are all factors the NMCCA can explore on remand. We hold only that the military appellate courts had jurisdiction to hear respondent's request for a writ of *coram nobis*. The judgment of the CAAF is affirmed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.