

SCALIA, J., concurring

SUPREME COURT OF THE UNITED STATES

No. 09–868

ASHBEL T. WALL, II, DIRECTOR, RHODE ISLAND
DEPARTMENT OF CORRECTIONS, PETI-
TIONER *v.* KHALIL KHOLI

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIRST CIRCUIT

[March 7, 2011]

JUSTICE SCALIA, concurring in part.

The Court holds that the term “collateral review” in 28 U. S. C. §2242(d)(2) means review that is not direct, *ante*, at 5, and that a motion under Rhode Island’s Rule 35 seeks collateral review, *ante*, at 9. Because I agree with those conclusions, I cannot join footnote 3 of the Court’s opinion, *ante*, at 9, n. 3, which declines to decide whether a Rule 35 motion seeks direct review.