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

WALL, DIRECTOR, RHODE ISLAND DEPARTMENT OF CORRECTIONS *v.* KHOLI

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

No. 09–868. Argued November 29, 2010—Decided March 7, 2011

Respondent was convicted in Rhode Island Superior Court on 10 counts of first-degree sexual assault and sentenced to consecutive life terms. His conviction became final on direct review on May 29, 1996. In addition to his direct appeal, he filed two relevant state motions. One, a May 16, 1996, motion to reduce his sentence under Rhode Island Superior Court Rule of Criminal Procedure 35, was denied. The State Supreme Court affirmed on January 16, 1998. The second, a state postconviction relief motion, was also denied. That decision was affirmed on December 14, 2006. When respondent filed his federal habeas petition, his conviction had been final for over 11 years. The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) generally requires a federal petition to be filed within one year of the date on which a judgment became final, 28 U. S. C. §2244(d)(1)(A), but "a properly filed application for State post-conviction or other collateral review" tolls that period, §2244(d)(2). Respondent's postconviction relief motion tolled the period for over nine years, but his Rule 35 motion must also trigger the tolling provision for his habeas petition to be timely. The District Court dismissed the petition as untimely, adopting the Magistrate Judge's conclusion that the Rule 35 motion was not "a properly filed application for . . . collateral review" under §2244(d)(2). The First Circuit reversed.

Held:

1. The phrase "collateral review" in §2244(d)(2) means judicial review of a judgment in a proceeding that is not part of direct review. Pp. 4–8.

(a) The parties agree that the answer to the question whether a motion to reduce sentence is an "application for State post-conviction

or other collateral review" turns on the meaning of "collateral review," but they disagree about what that meaning should be. Pp. 4–5.

(b) Because "collateral review" is not defined in AEDPA, the Court begins with the ordinary understanding of that phrase. By definition, "collateral" describes something that is "indirect," not direct. 3 Oxford English Dictionary 473. This suggests that "collateral" review is not part of direct review. This conclusion is supported by the definition of the related phrase "collateral attack" and by the Court's prior use of the term "collateral" to describe proceedings that are separate from the direct review process. Pp. 5–7.

(c) The term "review" is best understood as a "judicial reexamination." Webster's Third New International Dictionary 1944. Pp. 7–8.

2. A Rule 35 motion to reduce sentence under Rhode Island law is an application for "collateral review" that triggers AEDPA's tolling provision. Pp. 8–15.

(a) Rhode Island's Rule 35 is similar to the version of Federal Rule of Criminal Procedure 35 in effect before the federal Sentencing Reform Act of 1984. The Rule permits a court to provide relief, as relevant here, to "reduce any sentence," and it is generally addressed to the sound discretion of the sentencing justice. Under the limited review available, an appellate court may disturb the trial justice's decision if the sentence imposed is without justification and is grossly disparate when compared to sentences for similar offenses. Pp. 8–9.

(b) Keeping these principles in mind, a Rule 35 sentence reduction proceeding is "collateral." The parties agree that the motion is not part of the direct review process, and both this Court and lower federal courts have described a motion to reduce sentence under old Federal Rule 35 as invoking a "collateral" remedy. Therefore, it is not difficult to conclude that Rhode Island's motion to reduce sentence is "collateral." A Rule 35 motion also calls for "review" of the sentence within §2244(d)(2)'s meaning. The decision to reduce a sentence involves judicial reexamination of the sentence to determine whether a more lenient sentence is proper. The trial justice is guided by several sentencing factors in making that decision. And those factors are also used by the State Supreme Court in evaluating the trial justice's justifications for the sentence. Pp. 9–11.

(c) Rhode Island's arguments in support of its opposing view that "collateral review" includes only "legal" challenges to a conviction or sentence, and thus excludes motions for a discretionary sentence reduction, are unpersuasive. Nor does "collateral review" turn on whether a motion is part of the same criminal case. Pp. 11–15.

582 F. 3d 147, affirmed.

Syllabus

ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, BREYER, SOTOMAYOR, and KAGAN, JJ., joined, and in which SCALIA, J., joined, except as to footnote 3. SCALIA, J., filed an opinion concurring in part.